32D ANNUAL REPORT

OF THE

INTERSTATE COMMERCE COMMISSION

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THE INTERSTATE COMMERCE COMMISSION.

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JAMES S. HARLAN.
CHARLES C. McCHORD.
BALTHASAR H. MEYER.
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CLYDE B. AITCHISON.
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*

GEORGE B. McGINTY, *Secretary.*

* George W. Anderson became a member of the commission October 15, 1917, and resigned November 5, 1918.

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INTERSTATE COMMERCE COMMISSION.

WASHINGTON, D. C., *December 1, 1918.*

To the Senate and House of Representatives:

The Interstate Commerce Commission has the honor to submit herewith its thirty-second annual report to the Congress. The period covered by this report extends from November 1, 1917, to October 31, 1918, except as otherwise noted.

On December 5, 1917, we transmitted to the Congress a special report with reference to transportation conditions as affecting and affected by the war, the text of which is reproduced in a later part of this report.

On December 26, 1917, the President, by his proclamation, took possession and assumed control from and after 12 o'clock noon on the 28th day of December, 1917, of all the rail or combined rail-and-water systems of transportation located in whole or in part within the boundaries of the continental United States, in order to utilize the same for needful and desirable purposes connected with the prosecution of the war, and directed that the possession, control, operation, and utilization of such transportation systems, by him undertaken, should be exercised by and through the Director General of Railroads, thereby appointed.

In his accompanying statement the President declared that it had become necessary for the complete mobilization of our resources that the transportation systems of the country should be organized and employed under a single authority and a simplified method of coordination, which had not been possible under private management and control.

In his ensuing address to the Congress, on January 4, 1918, he sought certain legislation forecast in his address, and on March 21, 1918, he approved the federal control act, under which the Director General has since administered the transportation systems under federal control.

This act provides, among other things, that such control shall continue during the war and for a reasonable time thereafter, not to exceed 21 months after proclamation by the President of the exchange

of ratifications of the treaty of peace; is expressly declared to be emergency legislation enacted to meet conditions growing out of war;

and nothing herein is to be construed as expressing or prejudicing the future policy of the Federal Government concerning the ownership, control, or regulation of carriers or the method or basis of the capitalization thereof.

In our previous annual reports we have, as provided in the act to regulate commerce, transmitted to the Congress such information and data collected by us as were considered of value in the determination of questions connected with the regulation of commerce, together with such recommendations as to additional legislation relating thereto as we deemed necessary. These bore on the regulation of competing common carriers, privately owned and operated. We deem it both unnecessary and inappropriate to renew these recommendations under existing conditions, an important feature of which is temporary unified operation of the carriers by a governmental agency during national emergency and under war powers. That emergency is passing, and in the light of experience gained and to be gained therefrom it will be profitable to appraise the results of unified operation and to apply them, in so far as pertinent, to the solution of the problems expressly reserved by the Congress for later consideration. The conditions, without precedent or parallel, which the war has produced now press upon the Congress matters of the gravest national and international concern.

While we do not deem the present conditions and moment opportune in which to recommend concrete proposals for legislation, we may indicate certain lines of inquiry which must be pursued in order to reach sound conclusions.

Whatever line of policy is determined upon, the fundamental aim or purpose should be to secure transportation systems that will be adequate for the nation's needs even in time of national stress or peril and that will furnish to the public safe, adequate, and efficient transportation at the lowest cost consistent with that service. To this end there should be provision for (1) the prompt merger without friction of all the carriers' lines, facilities, and organizations into a continental and unified system in time of stress or emergency; (2) merger within proper limits of the carriers' lines and facilities in such part and to such extent as may be necessary in the general public interest to meet the reasonable demands of our domestic and foreign commerce; (3) limitation of railway construction to the necessities and convenience of the government and of the public, and assuring construction to the point of these limitations; and (4) development and encouragement of inland waterways and coordination of rail and water transportation systems.

Among the plans which doubtless will be proposed are the following: (1) Continuance of the present plan of federal control; (2)

public ownership of carrier property with private operation under regulation; (3) private operation under regulation with governmental guarantees; (4) resumption of private control and management under regulation; and (5) public ownership and operation. Additional plans and modifications or combinations of those enumerated might be listed.

If the policy of private ownership and operation under regulation is continued, the following subjects will require legislative consideration: (1) Revision of limitations upon united or cooperative activities among common carriers by rail or by water; (2) emancipation of railway operation from financial dictation; (3) regulation of issues of securities; (4) establishment of a relationship between Federal and state authority which will eliminate the twilight zone of jurisdiction and under which a harmonious rate structure and adequate service can be secured, state and interstate; (5) restrictions governing the treatment of competitive as compared with noncompetitive traffic; (6) the most efficient utilization of equipment and provision for distributing the burden of furnishing equipment on an equitable basis among the respective carriers; (7) a more liberal use of terminal facilities in the interest of free movement of commerce; and (8) limitations within which common carrier facilities and services may be furnished by shippers or receivers of freight.

Should the policy of public ownership and operation be adopted, there must be considered: (1) The just and fair price at which, and the terms under which, carrier properties are to be acquired; (2) prohibiting the operation of railways as a fiscal contrivance, insuring their administration in the interests of the convenience and commerce of the people, requiring that they shall be self-supporting and that their rates shall be properly related to the ascertained cost of service, and retaining and extending the economies and advantages of large scale production in transportation; (3) responsibility and relationship of the railway administration to Congress and other Federal authorities and to the states; (4) guarding against the intrusion of party politics into railway management; (5) a status for railway officers and employees under which the railway service will attract and retain the best talent; and (6) maintenance of a tribunal for the determination of controversies which will inevitably arise even under public operation.

The above outline is a mere enumeration of some important points to be considered. We will at an appropriate time report to Congress such information, suggestions or recommendations as we believe may be of assistance in solving the many and difficult transportation problems. It is important, however, to point out the relation of this Commission to the transition to the new régime of federal control.

TRANSITION TO FEDERAL CONTROL.

The duties of the Interstate Commerce Commission, as outlined in the act to regulate commerce, have involved the minimum participation in actual railway management or administration. Its work has related particularly to rates, rules, regulations, fares, charges, and practices; and while occasionally lending its good offices in matters of administration, the Commission has not assumed that under the act there is assigned to it the rôle of railway management or direction of operations. The only exceptions of moment until the passage of the Esch car service act in May, 1917, have been in the domain of the safety acts.

It was not found necessary to resort to the summary power conferred by the Esch act. A new bureau of the Commission, that of "car service," was created and with a joint committee of the carriers, known as the commission on car service, exerted wide regulatory power over car service and over transportation generally. Directions to the carriers' commission on car service sufficed to effect compliance with directions of the bureau of car service.[1]

Similar functions involving direct participation in railway administration and management had in the meantime devolved upon other governmental agencies. Under an amendment to the act to regulate commerce approved August 29, 1916, the President was given power to direct that priority in transportation be given troops and material of war; and in consequence the War and Navy Departments, as well as the United States Shipping Board, required priority to be given to shipments of a large tonnage of materials and supplies. Control of priority orders later was intrusted to the Priority Director under an act approved August 10, 1917. The Food Administrator, by licenses and regulations governing the purchase and sale of certain food supplies, virtually prescribed carload minima in excess of those named in the carriers' tariffs. The Fuel Administrator also issued instructions which affected the movement of fuel.

In addition to this divided authority over railroad transportation, the conditions, despite the carriers' efforts at cooperation in moving the vast amount of freight then being offered became so grave that on December 5, 1917, the Commission transmitted a special report to Congress as follows:

To the Senate and House of Representatives:

The act to regulate commerce requires the Commission to transmit to the Congress such recommendations as to additional legislation relating to regulation of commerce

[1] Our last annual report, pages 65–68, affords the details relating to this act and the bureau of car service organized thereunder. The Director General on February 6, 1918, created the car-service section of the Division of Transportation. This supplanted the commission on car service and took over intact its organization and personnel and a portion of the personnel of the bureau of car service, in effect continuing the existing arrangement for handling car service and transportation generally. The Commission's bureau of car service has coordinated its activity with the car-service section.

as the Commission may deem necessary. Under this mandate the Commission submits the following special report, supplementing its annual report, with reference to transportation conditions as affecting and affected by the war in which the United States is now engaged:

The railroads of the country came into being under the stimulus of competition. From the outset their operation and development have been responsive to a competition which has grown with the growth of population and industry. This competitive influence has been jealously guarded and fostered by state laws and constitutions as well as by the federal law. The keenness of rivalry naturally drew to the front those who were quick to seize and resolute to retain every available point of vantage for their respective roads. Terminals, if confined to exclusive use, were not only of strategic importance but profit-yielding assets. Out of competition grew rate wars, pooling, mergers, and consolidation into systems, as well as the rebating and other preferential treatment of shippers which the act to regulate commerce was primarily framed to prevent.

In that act the Congress, accepting the competitive principle as salutary, has thrown about it prohibitions against compacts for the pooling of freights or divisions of earnings of different and competing railroads, and, while the original act is but the nucleus of the act we now administer, that prohibition has remained unchanged.

But original act and successive amendments were alike framed in times of peace and for times of peace. They looked to protection of the shipper and the public against unjust or unfair treatment by the carrier, and not to protection of the nation and its commerce in time of war by utilization of all the forces and resources of its transportation systems to their fullest extent.

Since the outbreak of the war in Europe, and especially since this country was drawn into that war, it has become increasingly clear that unification in the operation of our railroads during the period of conflict is indispensable to their fullest utilization for the national defense and welfare. They must be drawn, like the individual, from the pursuits of peace and mobilized to win the war. This unification can be effected in one of two ways, and we see but two.

The first is operation as a unit by the carriers themselves. In the effort along this line initiated early in this year they are restricted by state and federal law, and the idea is the antithesis of that which heretofore has controlled their activities. Their past operations have been competitive, although since the Hepburn act, and especially since the Mann-Elkins act, the prescription by this Commission of reasonable maximum rates and charges for rail carriers subject to the act, and the exercise of its power to require abatement of unjust discrimination or undue prejudice, have in great degree restricted that competition to the field of service. But whether or not perpetuation of the competitive influence is desirable under a system of government regulation, it is apparent that operation of our railroads as a unit involves the surrender by each of exclusive use of terminal facilities, surrender at times of profitable traffic to other carriers, and acceptance of less profitable traffic, with resultant loss of revenue, wherever economy of movement or greater freedom from congestion would dictate that course if the various carriers were in fact but one.

The alternative is operation as a unit by the President during the period of the war, as a war measure, under the war powers vested in him by the constitution and those which have been or may be conferred by the Congress.

As bearing upon the alternatives thus stated it will be recalled that since the beginning of the war in 1914 the traffic offered to and moved by the railroads has increased enormously. Prior thereto there had been occasional periods of car shortage, usually restricted in territory, but it may be said that from 1907 down to 1916 the number of cars in the country exceeded the demand. This subject is treated in our annual report.

The sudden, unforeseen, and unprecedented demand for transportation occasioned by the war placed a strain upon the facilities and equipment of the railroads which they were not and are not prepared to meet. There was created a need for immediate and extensive additions to existing facilities and equipment. This need is coincident with demands upon capital, as well as upon labor, manufactures, and natural resources, such as we have never known. Important additions and betterments will require new capital.

The railroads propose essentially that we allow increases in freight rates of such magnitude that their increased earnings will attract investors, by dividends declared or by the prospect of dividends, in competition with securities issued by federal, state, and municipal governments, public utility corporations, and industries organized and operating primarily for gain as distinguished from public service. Some of the latter have yielded large profits since the outbreak of the war.

An attempt to secure new capital would come at a time when the rising cost of living has made it difficult for those dependent for support upon their earnings to meet their current expenses; after the absorption by American capital of two-thirds of the American securities owned abroad prior to August 1, 1914, the railroad securities returned to this country alone amounting to from $1,700,000,000 to $2,000,000,000; after financing in this country of loans to our present allies; and after subscription for almost $6,000,000,000 of liberty loan bonds.

Even if the railroads have more money, the immediate construction of necessary facilities and equipment could not readily be effective. Labor is scarce and the cost is mounting. So with materials and supplies. Car and locomotive builders are largely engaged in producing equipment needed abroad, both by our allies and by our own forces, in the conduct of the war. The steel and other materials needed for such construction, as well as the labor, are also needed in other phases of the conflict. Under such conditions and pending the acquisition of such additional facilities and equipment it is indispensable that those now in existence should be used to their fullest capacity, primarily for the uses which are most vital to the country's defense and welfare, but without unnecessary hindrance to the industry and commerce of our people, upon which their ability to contribute toward the success of the war so largely depends.

The act to regulate commerce was not enacted to meet such a situation. The carriers have the right to demand at our hands, and it is our duty to approve, just and reasonable rates sufficient to yield fair returns upon the value of the property devoted to public use after necessary expenditures for wages, fuel, and supplies, reasonable expenditures for maintenance, renewals, and betterments properly chargeable to operating expenses, and appropriate depreciation. Measured in dollars, the gross revenues of the carriers during the past and current fiscal years exceed any in their history. But what the dollar will buy in labor, material, and supplies is substantially less.

We are sensible of the vital and imperative need of the hour that our railroads shall not be permitted to become less efficient or less sufficient. We realize the gravity of a serious breakdown of our transportation facilities. It is unthinkable that this breakdown would be permitted if it could be prevented. Increased charges for carriage, if found necessary to take care of unavoidable increases in operating expenses, would not at this time bring new capital on reasonable terms in important sums.

In our opinion the situation does not permit of temporizing. All energies must be devoted to bringing the war to a successful conclusion and to that end it is necessary that our transportation systems be placed and kept on the plane of highest efficiency. This can only be secured through unification of their operation during the period of the war.

If the unification is to be effected by the carriers they should be enabled to effect it in a lawful way. To that end, in our judgment, the operation of the antitrust laws, except in respect of consolidations or mergers of parallel and competing lines, as applied to rail-and-water carriers subject to the act to regulate commerce, and of the antipooling provision of section 5 of that act, should be suspended during the period of the war, and until further action by the Congress. In addition, they should be provided from the government treasury with financial assistance in the form of loans or advances for capital purposes in such amounts, on such conditions, and under such supervision of expenditure as may be determined by appropriate authority. As a necessary concomitant the regulation of security issues of common carriers engaged interstate commerce should be vested in some appropriate body, as has been recommended in our annual reports. The rights of shippers for reasonable rates and nondiscriminatory service under the present jurisdiction of the Commission need not be seriously interfered with by such unified control. Some elastic provisions for establishment of new routes would probably be needed.

If the other alternative be adopted and the President operates the railroads as a unit during the period of the war, there should be, in our opinion, suitable guaranty to each carrier of an adequate annual return for use of the property, as well as of its upkeep and maintenance during operation, with provision for fair terms on which improvements and betterments made by the President during the period of his operation could be paid for by the carrier upon return to it of the property after expiration of that period.

HENRY C. HALL, *Chairman.*

To the Senate and House of Representatives:

The special report of the majority of the Commission leaves unsaid some things which should be plainly stated, if prompt and sure relief is to be brought to the present transportation situation. That the lack of adequate railroad service, particularly in eastern territory, is serious at the present time and is a cause of grave concern for the coming winter months needs no demonstration. Everyone knows it who knows anything about present business conditions. That the industries of the country engaged in making war materials, as well as those not so occupied, require the very best service which can be given by the railroads is also clear. I fully concur in the statement of the majority report that "it is necessary that our transportation systems be placed and kept on the plane of highest efficiency," and also that "this can only be secured through unification of their operation during the period of war." But the majority report takes the position, at least by implication, that this unification may "be effected by the carriers" themselves. With that judgment I wholly disagree.

The carriers' cooperative effort at the present time is in charge of the "executive committee of the special committee on national defense of the American Railway Association." This committee in its public announcements calls itself the railroad war board. It is the fifth committee that the railroads have had in Washington to deal with the transportation situation since November, 1916. The first two of those committees were given no real authority, although the Commission was advised by the executives that they had been given full power, or as it was expressed in the case of the first committee, "all the power of the executives." These committees, therefore, were unable to cope with the situation, despite earnest and praiseworthy efforts of their individual members, who were hampered by the unwillingness of certain railroads, acting under the restraint of executive influence, to carry out their instructions. These facts have been reported by the Commission, *Car Supply Investigation*, 42 I. C. C., 657. In that report both the majority and the minority expressed the view

that the situation could be improved by a committee of railroad officers to act in cooperation with this Commission if the committee were given plenary power by all the railroads. In apparent response to that suggestion a third committee was sent to Washington in January, 1917, but it also had not been given the promised power and was therefore not received. In February a fourth committee was sent to Washington to enforce certain car-service rules. Not all of the railroads believed that these rules were workable, and hence the agreement giving power to this committee was incomplete and inadequate. With this experience behind it, the American Railway Association, on April 11, 1917, formed its special committee on national defense and centered the chief authority in its executive committee. The resolution by which this committee was formed recites that the railroads of the United States pledged themselves, with the government of the United States, with the governments of the several states, and with one another, that during the present war they would "coordinate their operations in a continental railway system, merging during such period all their merely individual and competitive activities in the effort to produce a maximum of national transportation efficiency."

It was understood that the coordination of railway operations in a continental railway system meant that cars would be used interchangeably and sent where they were most needed, that track and terminal facilities would be opened up to all railroads, so as to relieve congestion, and that locomotives would be at once requisitioned from some of the strong and less burdened railroads for use on the important lines which have been unable to give efficient service largely because they were badly in need of motive power. Yet as late as November 24 the carriers' committee made an announcement from which the following is quoted:

"The railroads' war board to-day adopted revolutionary measures in order to relieve the congestion of traffic on the eastern railways. It directed 'that all available facilities on all railroads east of Chicago be pooled to the extent necessary to furnish maximum freight movement.' The effect will be that to the full extent that conditions render it desirable these railways will be operated as a unit, entirely regardless of their ownership and individual interests.

"The operating vice presidents of the eastern lines have been appointed a committee to operate as a unit all the lines involved, and have been given instructions and authority to adopt all measures which, in their judgment, may be necessary to relieve the present situation and assure the maximum amount of transportation.

* * * * * * *

"An important part of the plan adopted for the operation of the eastern lines is that of placing at their disposal the facilities of railways in other territories to such extent as may be necessary."

These measures—the pooling of cars, the operation of railways as a unit, the placing of facilities at the disposal of railways in other territories as needed—are essential steps in the coordiantion of railway operations "in a continental railway system," using the phrase of the resolution of April 11, but were not taken until November 24.

I do not wish to be understood as saying that the carriers' committee has not accomplished results, nor that the shippers have not cooperated with the carriers to get greater service from the available equipment, for the heavier car loading has been a very material factor of improvement. But our experience with railroad committees during the past year makes me believe that no voluntary committee can accomplish what the situation demands. One of the principal reasons is that the element of self-interest, the traffic influence, is a persistent factor in postponing and resisting measures that seek to disregard individual rights in the effort to secure transportation results as a whole. The "merely individual and competitive activities" and the established operating practices have their effect, despite directions or recommendations that have no sanction to enforce them except a voluntary agreement

which is very general in character. There runs also in the activities of these committees the self-evident purpose to do whatever appears to be necessary to prevent the governmental authority from acting. For these and other reasons which it is not necessary to state I can not concur in a report to the Congress which apparently acquiesces in a continuation of control over the transportation situation by a committee appointed by the carriers themselves. The suggestions with reference to the anti-trust laws, the antipooling provision of section 5 of the act, the desirability of government loans for capital purposes, and the regulation of security issues undoubtedly have merit, but in my judgment their enactment into law will not make it possible for any committee appointed by the carriers to secure the full measure of transportation service which the present conditions demand.

The "unification" needed if our transportation systems are to be "placed and kept on the plane of highest efficiency," is the unification of the present diversified governmental control. At the present time there are several federal agencies authorized by law to issue orders or directions with respect to transportation. This Commission, by the car service act, approved May 29, 1917, was given very broad powers to issue summary directions with respect to the movement, distribution, exchange, interchange, and return of cars. The priority director, designated by the President for that purpose under the act approved August 10, 1917, is authorized to direct that traffic essential to the national defense shall be given priority in transportation, and he has made certain orders of that character. The transportation of troops and material of war, under the amendment to the act to regulate commerce, approved August 29, 1916, is required upon the demand of the President to be given preference over all other traffic in time of war, and by direction of the Army and Navy Departments and the United States Shipping Board preference orders have been given for the transportation of a very large tonnage of war materials and supplies of all kinds. The administrations controlling fuel and food, to which adequate transportation is of course vital, have taken an active interest in the movement of those commodities through their appointed agents. Under this diversified control the carriers are not able to meet the requirements of the increasingly heavy tonnage which must be moved. In consequence the industries devoted to war purposes and those engaged in their normal business are suffering. There is no institution in which regularity of operation is more requisite than in transportation, but railroad operation is approaching a chaotic condition. A coherent plan must be worked out which shall provide for both the needs of the government in the energetic prosecution of the war and the needs of general commerce. It is imperative that war material be given preference in transportation but the financial sinews of war depend in large measure upon the successful operation of our manufacturing plants and business establishments.

I concur in the view that "the situation does not permit of temporizing," but I am convinced that the strong arm of governmental authority is essential if the transportation situation is to be radically improved. That authority must be unified to make possible action that is both vigorous and consistent. If the President elects to exercise the power given him, under the act approved August 29, 1916, to take possession and assume control of the transportation systems, I believe that vastly improved transportation conditions can be promptly secured. For this course legislation assuring the carriers a fair return may be appropriate. If the President does not so elect, it is my judgment that the authority over the regulation of railroad operations now vested in the several agencies referred to, with such amplification as may be necessary, should be promptly centralized by Act of Congress. All of the forces now at work upon the problem, including the carriers' executive committee and its numerous subcommittees, could be at once utilized, under a single governmental administrative control.

C. C. McCHORD, *Commissioner.*

FEDERAL CONTROL.

Federal control of systems of transportation became a fact by the President's proclamation of December 26, 1917. Hon. William G. McAdoo was appointed Director General of Railroads. While the railroads were to remain subject to all existing statutes and orders of the Commission and to all statutes and orders of state regulatory bodies, any order, general or special, made by the Director General was to have paramount authority. Sleeping car companies were taken over as systems of transportation along with the railroads. Wire and wireless transmission systems under a joint resolution of Congress approved July 16, 1918, were taken over by the President and by proclamation, effective at midnight July 31, 1918, were placed by him under the control of the Postmaster General. Marine cable systems owned or controlled and operated by any company or companies organized and existing under the laws of the United States, or any State thereof, were taken over by the President by proclamation effective midnight November 2, 1918. No question affecting the transmission companies has been brought to our attention since they were taken over.

On January 4, 1918, the President addressed the two houses of Congress in joint session in explanation of the taking over of the carriers by the Federal Government. He pointed out that:

> It had become unmistakably plain that only under Government administration can the entire equipment of the several systems of transportation be fully and unreservedly thrown into a common service without injurious discrimination against particular properties. Only under Government administration can an absolutely unrestricted and unembarrassed common use be made of all tracks, terminals, terminal facilities, and equipment of every kind. Only under that authority can new terminals be constructed and developed without regard to the requirements or limitations of particular roads.

He said also that it was—

> right and necessary that the owners and creditors of the railways, the holders of their stocks and bonds, should receive from the Government an unqualified guarantee that their properties will be maintained throughout the period of federal control in as good repair and as complete equipment as at present, and that the several roads will receive under federal management such compensation as is equitable and just alike to their owners and to the general public—

and suggested as the basis of the compensation "the average net railway operating income of the three years ending June 30, 1917."

The magnitude of the task devolving upon the Director General, no less than the war emergency which had created it, rendered imperative on our part a prompt offer to the United States Railroad Administration of any assistance that we could render. This tender was accepted by the Director General, and the individual Commissioners, in addition to their regular duties, prosecuted important investigations at his request.

Among these matters were the following: The assembling of financial information covering prospective capital requirements and security issues for the current calendar year; the maintenance of the integrity of tariff publications in substantial conformity with the Commission regulations; assistance in obtaining greater uniformity in freight classification; an inquiry into the advisability of federal control of express companies; an inquiry into the information or sources of information available to the United States Railroad Administration in the several departments or branches of the Government; an inquiry into the intercorporate relations of railroads; an investigation into the matter of the wages of railway employees, for which purpose a special commission of four was appointed by the Director General, including thereon a member of this Commission; an inventory of the property of carriers under federal control; studies of possible economies in transportation by shorter routing of traffic and the avoidance of unnecessary cross hauling and by physical connection of railroads which had previously been operated under competition; the undertaking to serve as intermediary in matters before state commissions affecting carriers under federal control; an inquiry into the proposed discontinuance of operation of certain short lines of railroad; an inquiry into methods of fuel economy; and examination of statistical and accounting problems.

In addition to the above list of matters, which is merely illustrative, various concrete situations affording difficulty or perplexity were, at the Director General's request, investigated by members of the Commission, and recommendations submitted thereon. Among these may be mentioned: proposed federal control of the St. Louis municipal bridge; the projected removal of the freight terminal at Sedalia, Mo.; information as to existing schedules of coal rates; the development of certain inland waterways; grade crossing elimination in Indianapolis; rentals of carrier owned elevators at Kansas City, Mo.; store-door delivery in New York City.

In addition to the matters listed above the services of various bureaus of the Commission have been freely utilized at the instance of the Director General, in particular the bureaus of tariffs, of carriers' accounts, of statistics, car service, and valuation.

At the Director General's request, four of the Commissioners have served on a general conference committee on the drafting of the standard compensation contract provided for in the federal control act approved March 21, 1918.

The federal control act laid the legislative foundation for the operation of carriers by the federal Railroad Administration. During the period of the emergency which led to its enactment to meet conditions growing out of the war it has changed in certain instances the functions of this Commission, superseding in some cases the powers

formerly exercised by us, altering in some degree our jurisdiction, and in other instances imposing upon us new duties. Certain salient changes resulting from this act are worthy of notice.

CHANGES EFFECTED UNDER THE FEDERAL CONTROL ACT IN THE INITIATION OF TARIFFS.

Railroads or transportation systems not under federal control remain, so far as interstate traffic is concerned, in all respects subject to the act to regulate commerce. For the most part, their gross revenues are small in comparison with those of the carriers under federal control.

For the carriers under federal control the President may initiate rates, fares, charges, classifications, regulations and practices which shall not be suspended by us pending final determination, by filing the same with us. His power so to initiate is not in terms confined to interstate traffic. Many of the schedules so filed purport on their face to apply alike on interstate traffic and on traffic moving wholly within the boundaries of any one state. Such schedules take effect at such time and upon such notice as he may direct, thus superseding the requirements of section 6 of the act to regulate commerce where statutory notice of 30 days is required, except where the Commission allows changes upon shorter notice. The power of the President to initiate increased rates, fares, charges, or classifications is not limited by the proviso in the second paragraph of the fifteenth section of the act to regulate commerce, as amended, which precludes the filing of an increased rate, fare, charge or classification, except after approval thereof has been secured from the Commission. The fifteenth section applications then pending have in practically all cases been ordered withdrawn by the Director General. It has resulted that fifteenth section applications have been greatly reduced in number, and are practically confined to carriers not under federal control or where such carriers participate in traffic.

The total number of new tariffs filed has also shown a marked diminution. The policy of the Railroad Administration is clearly in the direction of a smaller number of tariff issuing bureaus. This will effect a material reduction in the number of schedules filed, and will simplify the tariff situation.

EFFECT OF THE FEDERAL CONTROL ACT UPON THE DECISION OF CONTROVERSIES BY THE COMMISSION.

General Order No. 28 issued by the Director General increased freight rates and passenger fares generally throughout the United States upon federally controlled roads. The rates and fares so increased became and still are the governing rates of the country. It became effective as to passenger fares on June 10, 1918, and as

to freight rates on June 25, 1918. Many of our matured and maturing reports and decisions were deferred to enable us to give careful consideration to the effect of this order. The rates under attack in practically all pending cases had been increased by the rates initiated by General Order No. 28. It was urged that these higher rates could not be passed upon by the Commission so as to yield a lawfully effective order until the rates initiated by General Order No. 28 had been assailed as such by formal complaint to the Commission.

Section 10 of the federal control act with reference to rates initiated by the President, provides that:

> Said rates, fares, charges, classifications, regulations, and practices shall be reasonable and just and shall take effect at such time and upon such notice as he may direct, but the Interstate Commerce Commission shall, upon complaint, enter upon a hearing concerning the justness and reasonableness of so much of any order of the President as establishes or changes any rate, fare, charge, classification, regulation, or practice of any carrier under federal control, and may consider all the facts and circumstances existing at the time of the making of the same.

It requires the Commission, upon complaint, to enter upon a hearing relating to rates so initiated. This was construed as precluding the Commission from making in respect of rates so initiated such findings and orders as are authorized in the act to regulate commerce, enforcible as provided in said act, unless and until these rates had been made the subject of complaint to the Commission. At a public hearing on this subject on July 24, 1918, waiver was made for the Director General of any requirement that the justness or reasonableness of tariff changes initiated by him should be heard and determined by us only upon original complaints in new proceedings. We, therefore, instituted new rules of procedure adapted to this situation, holding in abeyance a large number of cases until by supplemental complaint the pleadings had been so amended as to make the Director General a party. Our original and supplemental announcements, together with these rules, are set forth in Appendix G.

Accordingly, on August 3, 1918, we issued notices to litigants advising them that they would have until October 1, 1918, to amend their complaints, if they so desired; and that, failing such amendments or supplemental complaints, we would proceed on the assumption that they desired a determination upon the issues as made. In a large number of instances supplemental complaints have been filed in these cases making the Director General a party and waiving further hearing.

The number of new complaints attacking rates instituted by the Director General has up to date been less than the usual number filed against carrier-made rates. It is assumed that this is in part attributable to the feeling that existing rates partake somewhat

of the character of a war measure. Reference may be made to the first cases decided in which the Director General was a party.

THE WILLAMETTE VALLEY CASE.

The complaint in this case, *Willamette Valley Lumbermen's Asso.* v. *S. P. Co.*, 51 I. C. C., 250, assailed as unreasonable, unduly prejudicial to complainant, and unduly preferential of other shippers and localities in the Northwest, defendants' rates on forest products, including lumber, from points on the lines of the Southern Pacific Company in the Willamette Valley in Oregon at which mills are operated by members of the complainant, to destinations in Montana, Wyoming, North Dakota, and other states, and the provinces of Manitoba and Saskatchewan, Canada. The rates attacked were made by combination on Portland, Oreg. Joint rates were sought on the basis applicable from the "coast group," which includes Portland and certain points along the Columbia River and in western Washington.

A proposed report prepared by the examiner was served on the parties April 9, 1918, and exceptions thereto were filed. On May 25, 1918, the Director General of Railroads issued his General Order No. 28, supplemented June 12, by which, among other things rates for the transportation of lumber were to be increased 25 per cent, but not exceeding 5 cents per 100 pounds, effective June 25.

Under our special rules of practice complainant filed a supplemental complaint naming the Director General a party defendant and reciting the increases in rates established as a result of General Order No. 28. It stated that it did not desire to submit additional evidence, but wished to argue the case before the Commission. On behalf of the Director General, it was stipulated that the evidence already taken might be considered so far as relevant and material, and no request to take additional evidence was made.

Argument was had on October 3, 1918, and on October 22 the Commission made its report and order.

In its report, after reciting the facts set forth above, the Commission said:

> The arguments made by different representatives of the railroads and the Director General may be condensed into the following main contentions:
>
> 1. That the words "just and reasonable" used in the control act have meanings different from those applied to them in the act to regulate commerce.
>
> 2. That the evidence now in the case is irrelevant to the issues presented by the supplemental complaint and is insufficient for their determination.
>
> 3. That the rates initiated by the Director General in themselves, and in their relation to each other are presumed to be right, and they can not be changed without an affirmative showing that they are wrong.

A determination of these issues necessitated the interpretation of portions of section 10 of the federal control act. It was said:

> This law requires that the Commission in determining questions concerning rates initiated by the President shall take into consideration the fact that the defendant

carriers are being operated as a unified and coordinated national system and not in competition; that the rates were initiated under a certificate of the President; and that consideration shall be given to that certificate and to any recommendation the President may make with respect to such rates. In other words, Congress intended that the Commission is not to interfere by any action it may take, or any order it may make, with the operation of the railroads of the country for purposes for which Government control was assumed, or reduce rates initiated by the President without carefully weighing all the circumstances under which they were initiated and fully considering the reasons therefor and the purpose sought thereby.

The words "just and reasonable" as used in the control act obviously bear a similar or closely analogous meaning to that attaching to their use in the act to regulate commerce; in both cases they are to be construed in the light of all the circumstances and conditions; certainly they are not to be more narrowly construed. Rates made by the President must be reasonable in and of themselves and they must be relatively just in view of all the conditions enumerated in the control act and in view of other circumstances and conditions.

The second contention that the evidence already taken in this case is irrelevant and insufficient to support the issues raised in the supplemental complaint is untenable. It is to be remembered that the real issue in the case is now, and was when it was heard and first submitted, one of relationship. * * *

Because of the rates initiated by the Director General, the alleged undue prejudice against complainant's members has been increased. What additional evidence need the complainant offer except the fact of the increase in the discrimination? That appears from the rates on file, and they are proper to be taken into account. Even if the old relationship had been maintained by an increase of 25 per cent in the through charges no new evidence is needed, nor could any well be submitted by complainant that would enable the Commission better to determine the questions at issue than the evidence now in the record. In simple justice to complainant it should not now be called upon to make further expenditures to show simply what the Commission already has before it.

* * * * * * *

There is no authority in the control act for perpetuating during the period of federal control a rate adjustment that is unlawful under the act to regulate commerce.

If it should be shown to us that to grant the prayer of the complainant would interfere with the operation of the railroads as a unit, or would deprive the Government of needed revenue to operate the railroads for war purposes, a different situation would be presented from that now under review. The facts with respect to such showing are with the Director General. It is not even suggested on the record that what the complainant seeks in this case, if granted, would in any manner interfere with the operation or maintenance of the defendant railroads under federal control for the purposes that dictated the assumption of their control by the Federal Government.

* * * * * * *

It does not appear that the establishment of the joint rates prayed for will in any way interfere with the operation of the federally controlled defendants as a unit.

* * * * * * *

The third contention made on behalf of the defendants is that there is a presumption that the rates and relations of rates initiated by the Director General are just and reasonable and can not be changed with propriety except on affirmative evidence by the complainant to the contrary.

One obvious answer to this contention is that the Director General did not initiate the inequality in the rates which evoked the complaint. The increases initiated by him were superimposed on the then existing basis. That basis was initiated by the defendants and had been maintained by them for many years before federal control. At the hearing the complainant assumed the burden of showing that the rate adjust-

ment was unreasonable and unjust. All the facts are now in the record with respect to that adjustment. It is inconceivable, in our opinion, that the Congress did a vain thing in conferring upon this Commission power to determine whether or not the rates initiated by the Director General are just and reasonable. The same force and effect must be given to that part of the law as to its other provisions. The simple fact is that if the rates were unlawful because unduly prejudical when the evidence was submitted, the changes in rates since federal control have increased the prejudice.

The rates were found relatively unjust and unreasonable and unduly prejudicial to the extent that they exceeded those contemporaneously maintained from the coast group, including Portland, to the same destinations, and joint rates were required to be established. An appropriate order was entered against the defendants, including the Director General.

KAW RIVER SAND & MATERIAL COMPANY CASE.

In this case, *Kaw River Sand & Material Co.* v. *A. T. & S. F. Ry. Co.*, decided November 2, 1918, 51 I. C. C., 350, complainant alleged that charges based on the rate of 1 cent per 100 pounds in addition to the rate from Kansas City, Mo.–Kans., on shipments of sand from complainant's plant on the line of the A., T. & S. F. Ry. near Turner, Kans., a short distance outside of the Kansas City switching district, to points on the lines of defendants other than the A., T. & S. F. Ry., within 150 miles from Kansas City, were unreasonable and unduly prejudicial to the extent that they exceeded charges exacted from complainant's competitors in the same producing locality. The complaint, filed in May, 1917, was against all the steam railroads serving Kansas City. The complainant asked for just and reasonable joint rates and for reparation on shipments made under the rates assailed.

On June 25, 1918, after the hearing had been completed and the case submitted on oral argument, the rate from Turner to Kansas City was increased from 1 cent to 2 cents per 100 pounds in alleged compliance with General Order No. 28 of the Director General. By supplemental complaint the Director General was made a party defendant. His answer was similar to that set out in our report in the *Willamette Valley case*, supra. No further hearing was asked or had and the case stood submitted upon the record made, considered in the light of present conditions.

After referring to the provision in section 10 of the federal control act that—

In determining any questions concerning any such rates, fares, charges, classifications, regulations or practices, or changes therein, the Interstate Commerce Commission shall give due consideration to the fact that the transportation systems are being operated under a unified and coordinated national control and not in competition,

we said:

The Santa Fe applies the Kansas City basis of rates from complainant's plant only when shipments are destined to points on its own lines. No possible justification can

be found, under a unified and coordinated national control, for a different treatment when shipments are destined to points on lines other than the Santa Fe. Indeed, it is substantially accurate to say that there are no "shipments destined to points on lines other than the Santa Fe," for federal control makes, for present purposes, all the lines serving Kansas City, except the connecting electric carrier, a single line.

* * * * * * *

As stated above, the provisions for the absorption of switching charges in the tariffs of the various carriers are not uniform:

* * * * * * *

Under present conditions and the elimination of carrier competition, when there is absorption of switching charges within a switching district, the provisions therefor should be uniform where similar circumstances and conditions prevail.

We found that defendants were subjecting complainant to undue and unreasonable prejudice, which was ordered removed. The evidence of pecuniary damage resulting therefrom was found insufficient to warrant an award of reparation.

CERTIFICATES PREREQUISITE TO EXECUTING COMPENSATION CONTRACTS.

The federal control act provides that a carrier taken under federal control may be guaranteed during the period of federal control an annual sum

not exceeding a sum equivalent as nearly as may be to its average annual railway operating income for the three years ended June thirtieth, nineteen hundred and seventeen.

And also that

The average annual railway operating income shall be ascertained by the Interstate Commerce Commission and certified by it to the President. Its certificate shall, for the purpose of such agreement, be taken as conclusive of the amount of such average annual railway operating income.

In making the certificates we were governed by the consideration that the federal control act employed certain specific terms of the accounting system prescribed by us for the reports required of the carriers. The end of the three-year period designated in the statute did not however coincide with the end of the fiscal year currently in effect. We were, therefore, compelled to compute the railway operating income attributable to the first six months of the calendar year 1917 in conformity, so far as possible, with the accounting methods laid down by us for the carriers' observance.

Inasmuch as the financial reports of the carriers under the current accounting system were before Congress when the federal control act was passed, we were of opinion that our certification was intended to proceed along the lines of the established accounting system and within the limits of practicability.

This certification is made subject to such changes and corrections as we may hereafter determine and certify to be requisite in order that the accounts and reports of the company used as the basis of computing said average annual railway operating income may be

brought into conformity with our accounting rules or regulations in force at the time of such accounting, or in order to correct computations based on such accounts or reports.

We have always exercised the power to require correction of reports made by the carriers. In the making of the certificates we required revision of wage entries since January 1, 1917, so as to make them conform to the wages fixed by the Adamson act. We also required for the first six months of 1917 appropriate accruals of the war taxes at a sum equal to one-half of the total for that year.

The difficulty which arose from the different standards of maintenance and depreciation observed by different carriers was met by a provision in the standard compensation contract. Stated in general terms, this provides that during federal control the United States Railroad Administration shall expend sufficient on the carrier's property to insure its return in substantially as good repair and complete equipment as it was on January 1, 1918, with the proviso that an average annual expenditure for such purposes, equal, making due allowance for differences in wages of labor and cost of materials, to that made by the carrier itself during the test period shall be deemed a satisfaction of the covenant, and with a further proviso that expenditures in excess of those so made by the carrier for the test period, but required for the safe and proper operation of the property, assuming a use similar to the use for the test period, shall be made good by the carrier.

On September 3, 1918, we transmitted to the President the first lot of certificates required by the federal control act, accompanied by the communication appearing in Appendix F, which shows the manner in which the amounts certified were derived.

THE ACT TO REGULATE COMMERCE AS AFFECTED BY FEDERAL CONTROL.

The act to regulate commerce is based upon the constitutional power of Congress to regulate interstate and foreign commerce. The federal control act is based upon the war powers of the National Government. The latter power, while its exercise has ordinarily been of shorter duration, is of much wider extent than the former.

The federal control act would apparently have permitted the President to allow the carriers, as such, to operate the railroads under his general supervision and control. He has chosen, however, not to do so, but to operate them directly through the Director General. The orders issued by the Director General are the orders of the President whose representative he is.

It has thus come about that for the time being certain sections of the act to regulate commerce have, in their application to carriers

under federal control, been superseded by the orders of the Director General. Thus General Order No. 1 authorizing the disregard of established routes where efficiency or economy would thereby result has superseded the fifteenth section of the act to regulate commerce in so far as carriers were previously protected from being short hauled and in so far as the shipper's right to route the movement of freight is concerned.

Similarly, the Director General's Order No. 1 unifying the transportation systems under federal control supersedes the protection thrown by section 3 of the act to regulate commerce around the carriers' exclusive right to the use of their tracks or terminal facilities.

Section 10 of the federal control act provides that the Commission shall not suspend, pending final determination thereon, rates or fares initiated by the President; and that rates and fares initiated by the President shall become effective at such times and on such notice as he directs.

Fifteenth section applications to file increased rates, fares, charges or classifications are no longer compulsory so far as carriers under federal control are exclusively concerned. It is disputed whether the provision of the same section relating to the burden of proof to show that an increased rate is just and reasonable is qualified by section 10 of the federal control act.

THE ADVISORY FUNCTION OF THE COMMISSION.

Section 8 of the federal control act provides:

> That the President may execute any of the powers herein and heretofore granted him with relation to federal control through such agencies as he may determine, and may fix the reasonable compensation for the performance of services in connection therewith, and may avail himself of the advice, assistance, and cooperation of the Interstate Commerce Commission and of the members and employees thereof, and may also call upon any department, commission, or board of the Government for such services as he may deem expedient.

If it be assumed that the power of the Director General to initiate rates applicable wholly within a state is not inhibited by section 15 of the federal control act, the question arises whether the jurisdiction of the Commission has not been extended by section 10 of that act to embrace a review of state rates so initiated. The first proviso of section 1 of the act to regulate commerce is that "the provisions of this act shall not apply to the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property wholly within one state." The Government has taken over transportation systems carrying both state and interstate traffic. The federal control act empowers the President to initiate rates, fares, charges, classifications, regulations, and practices whenever in his opinion the public interest requires, by filing the same

with the Interstate Commerce Commission. Our jurisdiction to determine the reasonableness and justness of any such order of the President relates to "any rate, fare, charge, classification, regulation, or practice of any carrier under federal control." The findings and orders which the Commission may enter after hearing are such as are authorized by the act to regulate commerce as amended.

There have been raised at least two important questions relating to the fourth section of the act to regulate commerce as affected by the federal control act. The first is whether pending fourth section applications filed by the carriers protecting their deviations from the rules of the fourth section, until a determination of the applications by the Commission, may be continuously passed upon as heretofore; the second is whether the rules of the fourth section apply to rates initiated under the federal control act.

Under the language of section 8 of the federal control act quoted above the Director General may avail himself of our advice, assistance, and cooperation. It has been and is our disposition and policy to respond to such requests, and when necessary or appropriate, we take testimony and hear arguments from interested parties in the premises. Important instances are the pending consolidated classification case and the express case reported in 51 I. C. C. 263 hereafter discussed.

FORMAL DOCKET.

The number of formal complaints filed is 342, a decrease of 309 as compared with the previous year. During the same period 576 cases have been decided and 77 have been dismissed by stipulations or on complainant's request, making a total of 653 disposed of, as against 852 during the previous year.

We conducted 596 hearings and took approximately 104,983 pages of testimony, as compared with 1,228 hearings and 210,133 pages of testimony during the preceding year.

The reduction in the number of formal complaints is attributable in large part to the patriotic motives of shippers, and in part to the amendment to the fifteenth section of the act elsewhere referred to.

INVESTIGATION AND SUSPENSION DOCKET.

The amendment of August 9, 1917, to section 15 of the act prohibits carriers from filing schedules of increased rates, fares, or charges except after approval thereof has been secured from the Commission. The operation of this law naturally has had the anticipated effect of substantially reducing the number of instances in which the power to suspend proposed increased rates, fares, or charges filed by carriers was sought or exercised.

During the period covered by this report 10 such proceedings have been instituted, a decrease of 186 as compared with the previous

year, and 103 such proceedings have been disposed of, a decrease of 120. Under supplementary orders of suspension many proposed new schedules were added to pending investigations.

During the same period the Commission declined to suspend protested schedules in 18 instances, a decrease of 218 as compared with the previous year.

BUREAU OF CORRESPONDENCE AND CLAIMS.

The policy of the Commission toward informal complaints directed against carriers under federal control was outlined in its announcement to the public of June 20, 1918.

The number of informal complaints received during the year was 5,458, an increase of 158 over the preceding year. During the same period carriers filed 2,761 special docket applications for authority to refund amounts collected under the published rates, admitted by the carriers themselves to be unreasonable, a decrease of 2,122 under the preceding year. Orders authorizing refunds were entered in 2,752 cases, a decrease of 2,607 under the preceding year, and reparation was so awarded in amounts aggregating $682,900.50. In addition, 182 cases were dismissed or otherwise disposed of without orders. This decrease in special docket applications is due largely to the fact that the United States Railroad Administration has not generally resorted to presentation of the cases on this docket.

INVESTIGATIONS.

The following investigations have been instituted on our own motion:

Into the propriety of divisions, rules, regulations, and practices of the Sugar Land Railway Company and of its connections.

Concerning the propriety of the rates, rules, regulations, and practices of common carriers governing transportation of petroleum and its products between points in official classification territory.

Concerning the carload minima governing the transportation of lumber and lumber products between all points in the United States.

For the purpose of determining whether the use by the Nashville, Chattanooga & St. Louis Railway of certain steamboats and barges for the transportation of passengers and freight on the Tennessee River constitutes a violation of section 5 of the act to regulate commerce, as amended.

Into the reasonableness and propriety of descriptions, rules, regulations, ratings, and minimum weights provided in "Proposed Consolidated Freight Classification No. 1," excepting the rules and regulations governing the transportation of explosives and other dangerous articles.

Concerning rates, fares, charges, rules, regulations, and practices contained in freight and passenger tariffs of the Michigan Railway Company.

With a view to the entering of orders fixing fair and reasonable rates and compensation for the transportation of mail matter by urban and interurban electric railway companies in accordance with the act approved July 2, 1918, making appropriations for the service of the Post Office Department for the year ending June 30, 1919.

The following investigations have been concluded:

To determine and define the proper limits of the first, second, third, and fourth zones created by the act entitled "An act to save daylight and to provide standard time for the United States." 51 I. C. C., 273.

Respecting the handling, icing, etc., of private cars by common carriers and the allowances made to owners of such cars. 50 I. C. C., 652.

Concerning rates, rules, regulations, and practices governing contracts for private telegraph and telephone wires. 50 I. C. C., 731.

Concerning the rules, regulations, and practices of carriers in investigation and adjustment of claims for loss and damage of shipments of grain and grain products moving in bulk. 48 I. C. C., 530.

Responsive to request of the Committee on Interstate and Foreign Commerce of the House of Representatives concerning the character and extent of the service and the financial history, transactions, and practices of the Wabash Pittsburgh Terminal Railway Company, its leased properties, and its predecessor corporation. 48 I. C. C., 96.

Responsive to Senate resolution of August 15, 1916, in regard to the Charleston & Norfolk Steamship Company. 47 I. C. C., 365.

Into the propriety of joint rates between the Combs, Cass & Eastern Railroad and the St. Louis-San Francisco Railway Company. 50 I. C. C., 221.

Into the reasonableness of rates on cement in carloads from points in the Hudson Cement District to points on the lines of the Boston & Maine Railroad, Maine Central Railroad, St. Johnsbury & Lake Champlain Railroad, and Montpelier & Wells River Railroad. 49 I. C. C., 502.

Concerning the rates on iron ore from Lake Erie ports to points in Ohio, West Virginia, and Pennsylvania. 48 I. C. C., 650.

The following investigations are still open and reports therein have been made as noted:

Concerning rules and regulations governing the transportation of inflammable and other dangerous articles. Revised regulations prescribed.

Concerning the issuance and use of passes and franks and as to free passenger service. 50 I. C. C., 599.

Concerning the reasonableness of rates on cement between points in western trunk line territory and adjacent territory. 48 I. C. C., 201.

Concerning allowances to short lines of railroads serving iron and steel industries. 48 I. C. C., 620; 49 I. C. C., 332; 49 I. C. C., 359.

Concerning the reasonableness of rates on bituminous coal from points in Virginia, West Virginia, Kentucky, and Tennessee to points in Virginia, North Carolina, South Carolina, Georgia, and Florida. 50 I. C. C., 1.

The following investigations are still open and no reports have been made therein:

Concerning the propriety of rates, charges, practices, rules, regulations, ratings, classifications, carload minima, differentials for hauls over two or more lines, and bridge tolls or charges applicable on traffic between Memphis and points in Arkansas and contiguous territory in Missouri and Oklahoma.

Concerning the class and commodity rates from eastern cities and interior eastern points, Virginia cities, Buffalo-Pittsburgh territory, Ohio and Mississippi river crossings, south Atlantic and Gulf ports, and points in the Mississippi Valley to points in southeastern territory.

Concerning the practices of common carriers in leasing their facilities and other properties to shippers.

Concerning the rules, regulations, and practices with respect to the issuance, transfer, and surrender of bills of lading.

As to the reasonableness of charges upon cars transported as freight on their own wheels, either loaded or empty.

Concerning the rates, practices, rules, regulations, and classification of lumber and products of lumber.

Concerning the rates, rules, regulations, and practices of carriers governing transportation of live stock, fresh meats, and packing-house products.

Concerning the propriety of joint rates between the Norfolk & Western Railway Company and Big Sandy & Cumberland Railroad Company and the divisions of such rates.

Concerning the propriety of joint rates between the St. Louis, Iron Mountain & Southern Railway Company and Gulf, Colorado & Santa Fe Railway Company and Oakdale & Gulf Railway Company, and the divisions of such rates.

Concerning the propriety of joint rates and divisions thereof between the St. Louis, Iron Mountain & Southern Railway Company and the New Orleans, Texas & Mexico Railway Company and the Kinder & Northwestern Railroad Company.

Concerning issuance, form, and substance of receipts and freight bills.

With a view to the entry of an order or orders fixing and determining fair and reasonable rates and compensation for the transportation of mail matter by railway common carriers in accordance with section 5 of the act approved July 28, 1916, making appropriations for the service of the Post Office Department for the year ended June 30, 1917.

Concerning rates, practices, and regulations governing transportation of import traffic as compared with those governing domestic traffic.

THE FOURTH SECTION.

In our last annual report we gave a resumé of important cases decided under the fourth section. The one of most importance and greatest interest was the *Transcontinental Case*, 46 I. C. C., 236. It was also noted that in correcting their rates in accordance with the terms of our order the carriers had elected to increase certain rates, and that before their schedules containing such increases could be filed section 15 of the act had been amended by providing that no increased rate, fare, or classification should be filed except after approval thereof had been secured from the Commission; and that owing to protests against the schedules offered for filing by the carriers purporting to comply with the order, informal hearings thereon had been arranged. After these hearings our report was issued January 21, 1918, *Transcontinental Commodity Rates*, 48 I. C. C., 79. We granted certain of the increases via certain of the routes and denied certain other increases via other routes. The effect of these decisions was to bring all of these rates into conformity with the long-and-short-haul rule of the fourth section of the act. Thereby was removed a long standing cause of irritation to the intermountain country and a prolific source of complaints to the Commission.

In our last report we also referred to hearings and investigations had on approximately 200 fourth-section applications of the Denver & Rio Grande, the Colorado & Southern, the Colorado Midland, and the St. Louis-San Francisco roads. Practically all of these applications have been disposed of by orders, the carriers having waived formal reports.

The Director General of Railroads has requested and we have granted fourth section relief in connection with the establishment of certain rates by him.

The number of special applications received was 265, a decrease of 34 as compared with the preceding year. During the same period 453 fourth section orders were entered, of which 355 were permanent in character and 98 were for temporary relief. Of the 453 orders entered, 299 were in response to applications included among the original 5,030 applications for authority to continue then existing fourth section departures, while 154 were in response to special applications. Applications withdrawn after correspondence with carriers number 13. This is a decrease of 8 as compared with the preceding year. Orders granting relief in whole or in part total 208; orders denying relief, 245.

The complaint in *Johnston* v. *A., T. & S. F. Ry. Co.*, decided November 11, 1918, 51 I. C. C., 356, alleged that the rates charged by the defendants on various less-than-carload shipments of hides, wool, and tallow from certain points in Oklahoma and Texas to Wichita, Kans., were unreasonable, unjustly discriminatory, unduly prejudicial, and in violation of the fourth section of the act. The Director General was not made a party to the proceeding.

Portions of various fourth-section applications were heard in connection with the complaint, among them that of the Chicago, Rock Island & Pacific Railway Company seeking authority to continue rates on the commodities mentioned from stations Ardmore to Olney, Okla., both inclusive, to Wichita, lower than the rates from intermediate points. The distance from Ardmore to Wichita via the Rock Island is 434 miles, or 159 per cent of the short-line distance of 273 miles by way of Atchison, Topeka & Santa Fe Railway. In passing upon these applications we said:

> Question has been raised as to our power to consider at this time applications filed by carriers for relief from the provisions of the fourth section of the act to regulate commerce. It is suggested that those provisions are inconsistent with the purpose of the Federal-control act of March 21, 1918, and the full exercise of power conferred thereby. That act expressly provides that rates initiated by the President "shall be reasonable and just." Under section 4 of the act to regulate commerce certain widely prevalent forms of unjust, unreasonable, and unduly prejudicial charges are condemned and the burden is placed upon the carriers of showing that the situations apparently within the scope of the prohibition are in reality "special cases," justifying the exercise by us of a sound, legal discretion in authorizing departures from the general rules laid down. It is difficult to see how the enforcement of this section can interfere with a unified, coordinated national control, or in any wise hinder the prosecution of the war. As the situations covered by the fourth section can be reached by orders under the first three sections of the act to regulate commerce, the suggestion is equivalent to saying that we can not do in form what it is lawful to do in substance. These applications were filed by the carriers in accordance with the provisions of the act to regulate commerce. During their pendency they extended a protection to those carriers in maintaining rates that would otherwise have been unlawful. The applications were not withdrawn by the Director General when he assumed control of the railroads and he has obtained the benefit of whatever protection those applications

may have afforded. In this connection it may be remarked that the Director General sought and obtained from us fourth-section relief as an incident to the rates, fares, and charges initiated by him in his general order No. 28.

The act to regulate commerce remains in full force and effect except in so far as it may be inconsistent with the provisions of t he Federal control act or other acts appli cable to Federal control or with any order of the President. There has been no order of the President in the exercise of his war powers declaring that the enforcement of section 4 interferes with the efficient operation of railroads and systems of transportation under Federal control. Clearly no such declaration is contained in the act itself and any contention to that effect must be based upon a process of deduction. As to this it is sufficient to say that had the Congress intended to change the effect of section 4 it must be presumed that language appropriate to that end would have been used as was done with the power of suspension under section 15.

Authority was granted the Rock Island to maintain rates on hides, wool, and tallow, in less-than-carloads, from Ardmore to Wichita the same as the rates contemporaneously in effect over the Santa Fe, and to maintain higher rates from intermediate points east and south of Stuart, provided that rates from intermediate points do not exceed the corresponding rates in effect for like distances via the direct route of the Santa Fe, do not exceed the lowest available combination of rates subject to the act, and do not exceed the present maximum rates from intermediate points so long as the rates from Ardmore are not increased. Other fourth-section relief sought was denied.

In *Rice Potato Co.* v. *B. & O. R. R. Co.*, decided November 15, 1918, 51 I. C. C., 364, where relief from the provisions of the fourth section was sought, the Director General was a party defendant. Following *Johnston* v. *A., T. & S. F. Ry. Co., supra,* relief was denied.

RATE SCHEDULES.

There were filed 141,254 tariff publications containing changes in freight, express and pipe line rates, passenger fares and classification ratings. These figures indicate a decrease in the number of rate changes during this period as compared with recent years, notwithstanding the large number of schedules filed to establish the 15 per cent increases authorized by us in eastern territory and the 25 per cent increases ordered by the Director General. This reduction in the number of rate changes may be attributed in part to the operation of the amendment of August 9, 1917, to section 15 of the act, which requires carriers to secure the approval of a proposed increase before the tariff containing it is filed.

During this period 2,891 schedules tendered for filing were rejected for failure to give lawful notice, and 556 schedules containing increased rates or fares tendered for filing were refused by us because the carrier had not secured the approval required under the amended fifteenth section.

Our Bureau of Tariffs receives and responds to continually increasing demands for rate information from shippers, from the Railroad Administration, and from departments and bureaus of the Government, including those chiefly interested in the transportation of troops and war materials.

APPLICATIONS TO INCREASE RATES UNDER THE AMENDED FIFTEENTH SECTION.

During the year carriers have filed 5,282 applications for authority to file tariffs making increases in rates. The total number of such applications filed since the amendment of August 9, 1917, is 6,682. One thousand two hundred and forty-two applications have been approved, 83 denied in full, 116 denied in part, 3,897 withdrawn by the applicant carriers, 168 assigned to docket for formal hearings, and 1,237 are now pending.

CLASSIFICATION.

Following the policy outlined in our previous reports, we have endeavored to stimulate the work in the direction of uniformity in freight classification. At a conference of the classification committees, called on our suggestion, it appeared that the work that had been undertaken by the carriers' uniform classification committee, and which did not include fixing of ratings, might be brought to a conclusion at a not distant date. We addressed an inquiry to the carriers as to why they could not, by January 1, 1919, or earlier, effect an assimilation or consolidation of the three general freight classifications into one volume containing one set of uniform commodity descriptions with three rating columns, one for each territory, subtended, and with one set of general rules. Shortly after this communication was sent, the director of traffic of the United States Railroad Administration took up the question, and after conferences with us he appointed a small committee, of which our classification agent was a member, to take up the unfinished work of the uniform classification committee and bring forward a suggested consolidated classification carrying uniform rules and regulations and with three columns of ratings, one each for the official, western, and southern classification territories. It was understood that the report of this committee in the form suggested would, upon request of the Director General, be made the subject of an investigation by us. Under section 8 of the federal control act request for such an investigation and advice to the Director General based thereon was made upon us. Copies of the proposed consolidated classification, together with copies of our order instituting the investigation and specifying the places and times at which hearings would be had, were sent to the shipping public generally. Hearings have been held in

important commercial centers throughout the country, but have not been concluded.

It was not intended that this committee's work or its report should contemplate making the consolidated classification a source of additional revenue. Without forecasting anything with regard to the report which we will make after the hearings and arguments are closed, it seems not inappropriate to say that the individual representatives of the several classification territories injected numerous proposed increased ratings in the proposed consolidated classification. These were especially numerous in the southeast. Objections have been voiced to various features of the proposed classification, mainly with respect to the increased ratings and the rule relating to mixed carload ratings.

Uniformity in classification ratings will necessitate a great many changes. A change in rating automatically effects a change in rate, to say nothing of the effect on commercial competition between competitive articles or commodities. No two of the existing classifications have the same number of classes.

The ideal situation would be complete uniformity in ratings and a definite relationship in percentages of the rates on the several classes to the rate on the first class. Some progress has been made in the direction of more uniformity in the relationship of the rates on the several classes to the first-class rate, but conditions have created numerous and widely varying relationships, which have long existed, and now exist.

EXPRESS COMPANIES.

The block system of stating express rates has been adopted for intrastate business in all but three of the states, and these three are now, as we understand, preparing schedules substantially in accordance with that system. The completion and adoption of these schedules will remove the conflict between state and interstate express rates mentioned in our last report.

Effective July 1, 1918, the principal express companies were merged into one company, which is operating under a contract with the United States Railroad Administration. It is expected that this consolidation will permit of substantial economies in operation and bring about improvement in the service. The character of the express service rendered during the past year has been complained of frequently as inferior and inadequate. The cause of these complaints has been attributed by the express company to extraordinary demands upon the service and insufficient and inefficient labor, due to war conditions.

Informal complaints of delays in service and in adjustment of loss or damage claims and lack of pick-up and delivery service have been

received. These have been brought to the attention of the carriers and a disposition to dispose of them properly has been shown, although in some instances the process of adjustment has been slow. Informal complaints of overcharges resulting from separation of several parcels comprising one shipment and of delays in remitting C. O. D. collections have also been received and handled in the same manner.

In November, 1917, the principal express companies petitioned for approval of a 10 per cent increase in express rates, alleging that the revenues from existing rates were inadequate to meet the necessarily increased costs of operation. We held public hearings on this application and concluded that the increase was justified by the facts developed on the record. *Proposed Increase in Express Rates*, 50 I. C. C., 385.

In September, 1918, the Director General of Railroads, acting under section 8 of the federal control act, requested us to advise him with regard to a proposal of the express company to increase its rates because its expenses of operation were exceeding its revenues. He asked that we consider the plan proposed by the express company, ascertain whether or not its adoption would yield the revenue estimated, and whether it or some other plan was preferable. We held public hearings, at which we invited criticism of the proposed plan and suggestions for a better one, and after investigation of the subject made report to the Director General. *Increase in Express Rates*, 51 I. C. C., 263. By General Order No. 56 of the Director General increased express rates are made effective Jan. 1, 1919.

On November 16, 1918, the President by proclamation took over possession, control and operation of the express company, and placed it under the charge of the Director General of Railroads.

BUREAU OF INQUIRY.

Forty-six indictments were returned for violations of the act to regulate commerce and acts supplementary thereto. Twelve of these indictments were against carriers or carriers' agents and 32 against shippers, passengers, or interested parties other than carriers. Two indictments, for conspiracy, were against carriers and shippers jointly.

During the year 34 cases were concluded. In 20 of these cases pleas of guilty were offered by the defendants. In 4 cases verdicts of guilty were rendered, in 4 cases verdicts of not guilty were rendered, and in one case the jury disagreed. In one case a demurrer to an indictment was sustained. In 5 other cases indictments were dismissed upon motion of the Government, deaths of defendants necessitating such action in 2 instances.

The prosecutions begun and concluded during the past year were distributed over the following states: Alabama, California, Idaho,

Indiana, Iowa, Michigan, Minnesota, Mississippi, Missouri, Montana, New Jersey, New York, Ohio, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.

It has been necessary for the Government to use a large proportion of the available railroad service for military traffic and for serving industries that are engaged in producing munitions, especially those on railway lines which reach Atlantic ports. At times embargoes have been laid against the transportation of certain commodities for private purposes to such ports, especially lumber. As embargoed lumber could readily be sold at enhanced prices in the markets at the points of delivery affected, certain shippers took action to procure its transportation into such markets despite the restraining embargoes. These shippers, without the authorization of Government representatives, caused many carloads of lumber to be billed to seaboard terminals, improperly naming as consignees the United States Shipping Board, the Quartermaster's Department and divers individual officers of the United States army. Transportation of such shipments as Government freight was thus procured. While some of this lumber was sold, in competition with lumber dealers who employed honest methods, to Government contractors, most of it was disposed of at the points of delivery for private uses. The practice added to traffic congestion and effected an unjust discrimination against honest lumber dealers who did not resort to such means in order to secure transportation. Nine indictments, charging discriminations in violation of the Elkins act, have been obtained against the dealers who employed these unfair methods.

The Chicago and North Western Railway Company, the Minneapolis, St. Paul and Sault Ste. Marie Railway Company, the Chicago, Milwaukee and St. Paul Railway Company and several lumber shippers have been indicted for granting and receiving concessions in violation of the Elkins act. Rails and other track material, of substantial value, were leased by the carriers to the lumber companies and the latter were not required to pay adequate compensation for the use of such material. The material was used by the lumber companies to construct logging roads connecting the trunk lines with timber-producing lands of the lumber companies. It was found that the railroads in the middle west leased such material under conditions that were discriminatory as amongst the several lumber shippers. In a large number of instances no compensation whatever was charged for the use of the material. Compensation, when exacted for the use of the material, varied greatly, the rates of rental ranging from 4 to 12 per cent per annum. As the lessor carriers usually were obligated to renew and

replace the leased material, the leasing of such property at inadequate rentals resulted in a depletion of railway revenue. Undoubtedly some of the lumber companies would have preferred the extension of existing railway lines to their timberlands, instead of themselves laying the material.

The first prosecution for violation of the Pomerene bills-of-lading act, 39 Stat., 538, was brought, in November, 1917, in the Southern District of Ohio. The president, secretary, and confidential messenger, respectively, of the Ferger Grain Company, doing business at Cincinnati, Ohio, were indicted for uttering, with intent to defraud, false bills of lading, in violation of section 41 of said act. Sums of money were borrowed by the defendants for the Ferger Grain Company from a bank in Cincinnati, and the false bills of lading, which purported to represent carloads of grain in transit, were submitted as security for such loans. Upon investigation it was ascertained that the grain described in the bills of lading had not been shipped and was not in transit.

A demurrer to the indictment was sustained on October 14, upon the ground that as the bills of lading were false and therefore not representative of, or in respect to, any shipment in interstate commerce, the act had not been violated. The court held that the execution of the bogus bills of lading and their use for obtaining money under false pretenses constituted a crime cognizable by the criminal legislation of the states, with which the Congress, in the exercise of its power to regulate commerce, is not concerned.

Summaries of all indictments returned and cases concluded during the period, November 1, 1917, to October 31, 1918, will be found in Appendix A.

BUREAU OF LAW.

On October 31, 1917, there were 29 cases involving orders or requirements of the Commission pending in the courts, of which 15 have been concluded. During the year 2 cases were instituted, so there are now pending in the different courts 16 cases. Of these, 2 are in the Supreme Court and 14 in district courts.

Of the 15 cases finally disposed of during the year, 2 were dismissed on motion of the petitioners; 2, instituted for the collection of penalties, were dismissed on motion of United States attorneys, acting for the Department of Justice; in one, prosecution was abandoned by the petitioner after the Supreme Court of the District of Columbia had rendered a decision upholding the order of the Commission; in one, prosecution was abandoned by the parties after a decision had been rendered by the Supreme Court in a case involving the same subject matter, namely, the *Illinois Passenger Fares Case*, referred to below, and in 9, final decisions were rendered by the Supreme Court.

Summaries of all the foregoing cases are shown in Appendix B.

CASES DECIDED BY THE SUPREME COURT.

The Supreme Court decisions referred to are summarized as follows:

Louisville Cement Company v. *Interstate Commerce Commission*, 246 U. S., 638.

This was a proceeding instituted in the Supreme Court of the District of Columbia to correct what was alleged to be an error made in construing the provision of section 16 of the act to regulate commerce that "all complaints for the recovery of damages shall be filed with the Commission within two years from the time the cause of action accrues, and not after." Based on decision of the Commission in *Louisville Cement Co.* v. *L. & N. R. R. Co.*, unreported Opinion No. A–333; see also decision of the Commission in *Blinn Lumber Co.* v. *S. P. Co.*, 18 I. C. C., 430. Because it believed such construction to be necessary to give effect to other provisions of the act, especially those relating to rebates and undue preferences, the Commission held that an action accrues within the meaning of the clause above quoted, for the purpose of determining whether reparation should be awarded on account of unreasonable charges exacted for transportation by a carrier, when the traffic transported is delivered to the consignee at point of destination. In calling attention to reasons advanced in support of its construction and in holding the construction to be erroneous, the Supreme Court said:

> But this two-year provision, obviously enough, relates only to the recovery of money damages, and if Congress had intended that the cause of action of the shipper to recover damages for unreasonable charges should accrue when the shipment was received, or when it was delivered by the carrier, we can not doubt that a simple and obvious form for expressing that intention would have been used, instead of the expression "from the time the cause of action accrues." And in this connection we can not fail to recognize that when the statute was enacted the time when a cause of action accrues had been settled by repeated decisions of this court to be when a suit may first be legally instituted upon it * * * and since no clearly controlling language to the contrary is used, it must be assumed that Congress intended that this familiar expression should be given the well understood meaning which had been given to it by this court. * * * (Id., 644.)

Manufacturers Railway Company and St. Louis Southwestern Railway Company v. *United States and Interstate Commerce Commission.*

Manufacturers Railway Company and Anheuser-Busch Brewing Association et al. v. *United States and Interstate Commerce Commission*, 246 U. S., 457.

These two cases, based on decisions of the Commission in *Manufacturers Railway Company* v. *St. Louis, Iron Mountain & Southern Railway Company*, 21 I. C. C., 304; *Same* v. *Same*, 28 I. C. C., 93; *Same* v. *Same*, 32 I. C. C., 100, were heard and decided together by the Supreme Court and were brought to annul two orders of the Commission, one requiring the cancellation of certain trunk line tariffs providing for allowances to the Manufacturers Railway Company, and the

other requiring the discontinuance of charges on traffic from points served by the Manufacturers Railway Company to points outside Missouri higher than rates contemporaneously in effect from St. Louis to such points by more than $2.50 per carload.

Complaint was made of the Commission's failure to find unjust discrimination and award reparation, and in upholding the action of the Commission in this connection the court said:

> Whether a preference or advantage or discrimination is undue or unreasonable or unjust is one of those questions of fact that have been confided by Congress to the judgment and discretion of the Commission, * * * and upon which its decisions, made the basis of administrative orders operating *in futuro*, are not to be disturbed by the courts except upon a showing that they are unsupported by evidence, were made without a hearing, exceed constitutional limits, or for some other reason amount to an abuse of power. (Id., 481.)
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> * * * The real ground for resorting to the courts in this case is the failure to fix divisions. In effect the district court was asked to perform a function specifically conferred by law upon the Commission. But that court has only the same jurisdiction that formerly was vested in the Commerce Court * * *; and it is settled that this does not permit the court to exercise administrative authority where the Commission has failed or refused to exercise it, or to annul orders of the Commission not amounting to an affirmative exercise of its powers. (Id., 483.)

One of the orders related to the Commission's I. C. C. Docket No. 3151 and the other to its Investigation and Suspension Docket No. 355. The Commission treated the I. & S. docket as an independent case, and after it had suspended the tariff involved for a period of 120 days, ordered a suspension for a further period of six months. The complainants contended that this action of the Commission was arbitrary and unlawful for the reason that no hearing on the matters involved in the suspended tariff was begun within the 120 days, in accordance with the suspension provision in section 15 of the act to regulate commerce. The court, however, ruled that the Commission had a right to regard the I. & S. proceeding as ancillary to the other proceeding. The language of the court in this connection was:

> The question of the validity of the previous allowances, approximately $4.50 per car, or of any allowance greater than $2 per car, being thus bound up in the pending controversy under I. C. C. Docket No. 3151, the Cotton Belt tariff published December 7, 1913, while the Commission had that controversy under advisement, manifestly was an attempt to forestall the decision. There was no error in suspending it pending the decision. And there being nothing further to be submitted to the Commission in the way of evidence or argument, it was natural, and not inconsistent with the substantial rights of the parties, for the Commission to treat the suspension of the Cotton Belt tariff as a proceeding ancillary to the other, involving no different question on the merits. (Id., 487.)

In connection with their attempt to show that the order of the Commission would operate to confiscate the property of the Manufacturers Railway Company, the complainants estimated and included in the valuation upon which they claimed the railway company had a right to earn a fair return, the value of a lease covering property

owned by the Anheuser-Busch Brewing Association, and also the value of a lease executed by the city of St. Louis to the railway company. These values, however, were disallowed by the court, which, in this connection, said:

> We are not convinced that these somewhat speculative valuations of the leaseholds, even if the calculations were otherwise correct, ought to be included in the value of the railway's property for the present purpose. (Id., 494.)

Complainants included in their valuation the estimated value of all the property covered by the Brewing Association lease, but the court held this to be erroneous for the reason that the property was not exclusively used for common-carrier purposes.

Concerning the value of the lease executed by the city of St. Louis the court said:

> The lease from the city to the railway is not in the printed transcript, but the substance of the ordinance authorizing it is stated. It granted authority to construct, maintain, and operate tracks upon land of which a considerable part constituted a a public wharf. If the stipulated rental is less than the fair annual value of the property it is to be presumed that the grant of the excess was to the public, not to the private interest of the railway. We are at a loss to see upon what principle a presumed annual value of the leasehold in excess of the stipulated rent can be capitalized as assets of the railway for the use of which in commerce the public is required to pay tolls. This would give the lease the effect of converting public property, *pro tanto*, into private property. (Id., 496.)

Some of the evidence submitted to the court had not been introduced in evidence upon the hearing before the Commission, and the court condemned this method of procedure in the following language:

> * * *, correct practice required that, in ordinary cases, and where the opportunity is open, all the pertinent evidence shall be submitted in the first instance to the Commission, and that a suit to set aside or annul its order shall be resorted to only where the Commission acts in disregard of the rights of the parties. * * *. Hence we can not approve of the course that was pursued in this case, of withholding from the Commission essential portions of the evidence that is alleged to show the rate in question to be confiscatory. Certainly, where the Commission, after full hearing, has set aside a given rate on the ground that it is unreasonably high, it should require a clear case to justify a court, upon evidence newly adduced but not in a proper sense newly discovered, in annulling the action of the Commission upon the ground that the same rate is so unreasonably low as to deprive the carrier of its constitutional right of compensation. (Id., 489–490.)

Louisville & Nashville Railroad Company v. *United States et al.*, 245 U. S., 463.

This proceeding was instituted to annul an order of the Commission based on decision of the Commission in *Bowling Green Business Men's Protective Asso.* v. *L. & N. R. R. Co.*, 24 I. C. C. 228, denying in part and granting in part relief from the long-and-short-haul provisions of the fourth section of the act as to traffic shipped through Bowling Green, Ky., to Louisville, Ky., and Nashville, Tenn. A decree dismissing the petition was entered by the District Court for

the Western District of Kentucky. In affirming the decree of the district court, the Supreme Court said:

* * * The railroad assailed the validity of the order on many grounds; but its main contentions were, that the order complained of was not such a negative order as was contemplated by the fourth section of the act to regulate commerce, was not responsive to the application and hence, was not such an order as the Commission had power to make; and also that its decision was "contrary to the indisputable nature of the evidence" and not supported by any evidence. The district court refused to grant a temporary injunction and dismissed the bill. (225 Fed. Rep., 571.)

The case comes here by direct appeal; and thirty-eight errors are assigned. Eleven relate to the weight or sufficiency of the evidence before the Commission. The evidence was conflicting. And, as there was ample to sustain the findings, they are conclusive * * *. Other assignments present, in substance, either criticism of the reasoning of the Commission or of the form of the order, or assert unsubstantial or unsubstantiated irregularities in practice before the Commission; such as that the order deprived plaintiff of its property without due process of law, because the order was "broader than the hearing held in connection therewith," or that it was invalid because the Commission failed to act on "other phases" of the application * * *. Other errors assigned relate to the exclusion by the court of evidence which was clearly inadmissible, both because of the character of the evidence and because, on the issues presented, the validity of the order must be determined upon the evidence introduced before the Commission. Still other assignments allege, in varying language but without statement of reasons, that the Commission was without power to enter the order or that the court erred in denying the relief prayed for. Many of the assignments of error are not now insisted upon. None deserves detailed discussion. All are unsound * * *. (Id., 466–467.)

Illinois Central Railroad Company v. *State Public Utilities Commission of Illinois et al.*, 245 U. S., 493.

The decision in this case based on decisions of the Commission in *Business Men's League of St. Louis* v. *A., T. & S. F. Ry. Co.*, 41 I. C. C. 13; 41 I. C. C. 503, covers decrees of the district court for the Northern District of Illinois, denying an injunction sought by certain carriers against authorities of the state of Illinois, and dismissing a cross bill filed by said authorities to annul an order of this Commission. The order required the carriers to remove a discrimination which resulted from the maintenance by them of passenger fares which were less per mile for intrastate transportation within Illinois than the interstate passenger fares contemporaneously exacted by them for transportation from and to the Illinois points to and from St. Louis, Mo., and Keokuk, Iowa, and, relying upon their interpretation of the order, they undertook to increase all the intrastate fares. To this the state authorities objected, whereupon the carriers brought separate suits to enjoin them from interfering by civil or criminal proceedings, or otherwise, with the establishment and maintenance of the increased intrastate rates. The suits were consolidated by the district court and a cross bill making the United States and this Commission parties was filed by the state authorities to annul said order.

The Supreme Court held that the dismissal of the cross bill was correct, first, because the act of October 22, 1913, provides that suit to enforce, suspend, or set aside, in whole or in part, an order of the Commission relating to transportation, and made upon petition, may be brought only in the district wherein is the residence of the party, or any of the parties upon whose petition the order was made, while the order involved in this case was not made upon the petition of any party resident in the Northern District of Illinois, and, second, because there is no difference in this regard between a cross bill and an original bill where the United States is a necessary party, since the United States without its consent can not be sued, and had not in this case authorized suit to be brought against it otherwise than in accordance with said act.

The court further held that the dismissal of the carriers' petitions was proper, because the order of the Commission upon which the carriers relied for protection was void, for the reason that it did not point out with sufficient certainty the intrastate rates to which it was intended to be applied. The court showed that different degrees of certainty are requisite in different cases. Its language in this connection was:

> Where a proceeding to remove unjust discrimination presents solely the question whether the carrier has improperly exercised its authority to initiate rates, the Commission may legally order, in general terms, the removal of the discrimination shown, leaving upon the carrier the burden of determining also the points to and from which rates must be changed, in order to effect a removal of the discrimination. But where, as here, there is a conflict between the federal and the state authorities, the Commission's order can not serve as a justification for disregarding a regulation or order issued under state authority, unless, and except so far as, it is definite as to the territory or points to which it applies. For the power of the Commission is dominant only to the extent that the exercise is found by it to be necessary to remove the existing discrimination against interstate traffic. (Id., 509.)

The state authorities contended that the Commission did not have power to make an order which would authorize the carriers to change intrastate rates, and in stating and answering this contention the court said:

> In their answers the state authorities took the position that in so far as the order purports to authorize or require a removal of the discrimination found to exist by a change in intrastate rates it is in excess of any power that has been or can be conferred on the Commission, and therefore neither relieves the carriers from full compliance with the state rate law nor prevents that law from being fully enforced against them. If the premise were sound, the conclusion doubtless would follow, for where the Commission makes an order which it has no power to make the order is necessarily void, not merely voidable. But that the premise is not sound is settled by the *Shreveport Case* (*Houston, East & West Texas Ry. Co.* v. *United States*), 234 U. S., 342. Upon full consideration it there was held:
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> 1. Under the commerce clause of the Constitution Congress has ample power to prevent the common instrumentalities of interstate and intrastate commerce, such as

the railroads, from being used in their intrastate operations in such manner as to affect injuriously traffic which is interstate.

2. Where unjust discrimination against interstate commerce arises out of the relation of intrastate to interstate rates this power may be exerted to remove the discrimination, and this whether the intrastate rates are maintained under a local statute or by the voluntary act of the carrier.

3. In correcting such discrimination Congress is not restricted to an adjustment or reduction of the interstate rates, but may prescribe a reasonable standard to which they shall conform and require the carrier to adjust the intrastate rates in such way as to remove the discrimination; for where the interstate and intrastate transactions of carriers are so related that the effective regulation of one involves control of the other, it is Congress, and not the state, that is entitled to prescribe the dominant rule.

4. It is admissible for Congress to provide for the execution of this power through a subordinate body such as the Interstate Commerce Commission, and this it has done by the act to regulate commerce.

5. Where in the exercise of its delegated authority the Commission not only finds that a disparity in the two classes of rates is resulting in unjust discrimination against interstate commerce but also determines what are reasonable rates for the interstate traffic, and then directs the removal of the discrimination, the carrier not only is entitled to put in force the interstate rates found reasonable but is free to remove the forbidden discrimination by bringing the intrastate rates to the same level. (Id., 505–507.)

St. Louis Southwestern Railway Company et al. v. *United States and Interstate Commerce Commission*, 245 U. S., 136.

The decision in this case, based on decision of the Commission in *Paducah Board of Trade* v. *I. C. R. R. Co.*, 37 I. C. C., 719, affirmed a decree of the District Court for the Western District of Kentucky dismissing a petition filed by certain carriers to annul an order of the Commission establishing through routes and joint rates on logs and lumber from points in Louisiana and Arkansas to Paducah, Ky. The contentions of the carriers were stated and answered by the Supreme Court as follows:

Before the effective date of the order this bill was filed. It sets forth 16 reasons for holding the order void, and most of them are repeated in the assignment of errors in this court. One is a charge, left wholly unsupported by evidence, that a 16-cent rate to Paducah is confiscatory. Eight deal with the sufficiency or weight of the evidence before the Commission, of which there was ample to sustain its findings. Some relate to the form of the order, which was clearly appropriate. Few, only, of the errors assigned require discussion here.

First. The carriers deny that the Commission has the power to compel them to establish through routes and joint rates. It is admitted that all the complaining carriers were interstate railroads and were engaged otherwise in interstate commerce. It is undisputed that for many years there has been over the lines of two of these carriers a through route to Paducah via Cairo, and over the other a through route via Memphis; and that on all the lines there were through rates. But it is contended that if a carrier establishes a through route and joint rate with its connections it creates in effect a relation of partnership; that this relation must be entered into, if at all, voluntarily; and that to "compel a carrier chartered by a state" to enter into such a relation with a carrier chartered in another state violates the fifth amendment of the Federal Constitution.

The complaining carriers having engaged in this particular commerce, it is clear that Congress has power to regulate it. * * *. No reason appears why the regula-

tion might not take the form of compelling the substitution of a joint rate for a through rate made by a combination of local rates or by a combination of a local rate with a joint rate to an intermediate point. * * *. So far as the order relates to the existing routes via Cairo and Memphis, respectively, it did no more than this. It substituted for the through rate of 22 cents (made up on two of the lines of a combination of a joint rate or local rate of 16 cents to Cairo with a local rate on the Illinois Central of 6 cents from Cairo to Paducah) a joint rate of 16 cents from the "blanket territory" to Paducah; thus reducing the existing through rate. The carrier connecting at Cairo (the Illinois Central) and all but one of the carriers connecting with these complainants in the "blanket territory" acquiesced in the order establishing this joint rate. The Illinois Central's share of the 22-cent rate was its local rate of 6 cents. If these complaining carriers can not reach satisfactory agreements with the Illinois Central as to what its share of the 16-cent rate should be, they may, under section 15 of the act to regulate commerce, apply to the Commission for an appropriate order. * * *. (Id., 141–143.)

That Congress has power to authorize the Commission to enter an order for through routes and joint rates, like that here complained of, has been heretofore assumed. No reason is shown for questioning its existence now. The provisions of the act to regulate commerce as amended * * * are also appropriate to confer this authority upon the Commission. And there is no foundation in fact or law for the contention of complainants that the Commission disregarded the provision of section 15, by which it is prohibited from embracing in a through route "less than the entire length" of a railroad "unless to do so would make such through route unreasonably long." * * *.

Second. Carriers insist also that the order is void on the ground that, since their "rails do not reach Paducah, they can not be guilty of discrimination against that city." They, however, bill traffic via Cairo or Memphis through to Paducah in connection with the Illinois Central, thus reaching Paducah, although not on their own rails. And, thereby, they become effective instruments of discrimination. Localities require protection as much from combinations of connecting carriers as from single carriers whose "rails" reach them. Clearly the power of Congress and of the Commission to prevent interstate carriers from practicing discrimination against a particular locality is not confined to those whose rails enter it. * * * (Id., 143–144.)

Smith v. *Interstate Commerce Commission*, 245 U. S., 33.
Smith v. *Interstate Commerce Commission*, 245 U. S., 47.
Jones v. *Interstate Commerce Commission*, 245 U. S. 48.

These three cases based upon investigation of the Commission requested by Senate resolution *In re Financial Relations, Rates and Practices of the Louisville & Nashville et al*, 31 I. C. C. 261; 33 I. C. C. 168; 49 I. C. C. 320, involve the same principles of law and were heard together by the Supreme Court. They were instituted in the Supreme Court of the District of Columbia pursuant to section 12 of the act to regulate commerce to compel the president, the third vice president, and an attorney, of the Louisville & Nashville Railroad Company to answer certain questions in connection with expenditures of carrier funds for political and other purposes. In affirming an order of the latter court requiring answers to the questions, the Supreme Court said:

The fundamental contention of appellant is that the Interstate Commerce Commission has no power to ask the questions in controversy and in emphasis of this he asserts "the inquiry was confined exclusively to supposed political activities and efforts to suppress competition." And these, it is further asserted, "are not matters which the

Commission 'is legally entitled to investigate.'" The contention is attempted to be supported by the insistence that the investigation was provoked and prosecuted solely in obedience to the Senate resolution and neither in exercise of the judgment of the Commission nor in pursuance of a complaint made to it. And the twelfth paragraph of the resolution is dwelt upon as directing and controlling the inquiry as to what amount, if any, the railroads "have subscribed, expended or contributed for the purpose of preventing other railroads from entering any of the territory served by any of these railroads, for maintaining political or legislative agents, for contributing to political campaigns, for creating sentiment in favor of any of the plans of any of said railroads."

If, however, we advert to the questions we observe that the matters dwelt on by appellant are incidents only, having the purpose, it may be, in one sense to ascertain the "amount, if any," subscribed or expended, but not having the purpose in the sense of the questions, which is: Whether the amount subscribed or expended was charged to operating or legal expenses. The latter purpose is more special than the other, and, we may say in passing, does not necessarily involve even a criticism of the other, involves only the display in the accounts of the carriers of the amount expended and its allocation. To this limitation the investigation is reduced, and the question is, being so reduced, Is it within the powers of the Commission?

The Interstate Commerce act confers upon the Commission powers of investigation in very broad language and this court has refused by construction to limit it so far as the business of the carriers is concerned and their relation to the public. And it would seem to be a necessary deduction from the cases that the investigating and supervising powers of the Commission extend to all of the activities of carriers and to all sums expended by them which could affect in any way their benefit or burden as agents of the public. If it be grasped thoroughly and kept in attention that they are public agents, we have at least the principle which should determine judgment in particular instances of regulation or investigation; and it is not far from true—it may be it is entirely true, as said by the Commission—that "there can be nothing private or confidential in the activities and expenditures of a carrier engaged in interstate commerce."

Turning to the specialties of the Interstate Commerce act we find there that all charges and treatment of all passengers and property shall be just and reasonable, and there is a specific prohibition of preferences and discriminations in all the ways that they can be executed, with corresponding regulatory power in the Commission. And authority and means are given to enable it to perform its duty. By section 12 it is authorized to inquire into the management of the business of carriers and keep itself informed as to the manner and method in which the same is conducted, and has the right to obtain from the carriers full and complete information. It may (sec. 13) institute an inquiry of its own motion, and may (sec. 20) require detailed accounts of all the expenditures and revenues of carriers and a complete exhibit of their financial operations and prescribe the forms of accounts, records and memoranda to be kept. And it is required to report to Congress all data collected by it.

It would seem to be an idle work to point out the complete comprehensiveness of the language of these sections and we are not disposed to spend any time to argue that it necessarily includes the power to inquire into expenditures and their proper assignment in the accounts, and the questions under review, we have seen, go no further. They are incidental to an investigation as to the "manner and method" (sec. 12) in which the business of the carriers is conducted; they are in requisition of a detailed account of their expenditures and revenues and an exhibit of their financial operations (sec. 20), and the answers to them may be valuable as information to Congress (sec. 21).

A limitation, however, is deduced from section 13. It is said to be confined to cases where an inquiry is instituted "as to any matter or thing concerning which a complaint is authorized to be made, * * * or concerning which any question may arise

under any of the provisions" of the act "or relating to the enforcement of any of the provisions" of the act. In other words, that the inquiry is determined by the manner of procedure. The objection overlooks the practical and vigilant function of the Commission. To sustain it appellant seems to urge that there must be put into words by some complainant or by the Commission, if it move of itself, some definite charge of evil or abuse, and put into expression some definite remedy; and that an inquiry must not transcend either charge or remedy. To so transcend, appellant urges, would be an exercise of autocratic power and is condemned in *Harriman* v. *Interstate Commerce Commission*, 211 U. S., 407.

Appellant presses that case beyond its principle. And we may observe that section 13 has been amended and broadened since the decision of that case. The inquiry in the present case is more immediate to the function of the Commission than the inquiry in that and comes within *Interstate Commerce Commission* v. *Chicago, R. I. & Pac. Ry., supra*, where it was said, at p. 103: "The outlook of the Commission and its powers must be greater than the interest of the railroads or of that which may affect those interests. It must be as comprehensive as the interest of the whole country. If the problems which are presented to it, therefore, are complex and difficult, the means of solving them are as great and adequate as can be provided." And they must necessarily be expressed in generalities. A precise specification of powers might work a limitation and all not enumerated be asserted to be withheld.

We find it difficult to treat counsel's argument as seriously as they urge it. The expenditures of the carriers essentially concern their business. Section 20 declares it and gives the Commission power to require a detail of them, and necessarily not only of their amount but purpose and how charged. And the Commission must have power to prevent evasion of its orders and detect in any formal compliance or in the assignment of expenses a "possible concealment of forbidden practices." (Id., 41–45.)

Abstractly speaking, we are not disposed to say that a carrier may not attempt to mold or enlighten public opinion, but we are quite clear that its conduct and the expenditures of its funds are open to inquiry. If it may not rest inactive and suffer injustice, it may not on the other hand use its funds and its power in opposition to the policies of government. Beyond this generality it is not necessary to go. The questions in the case are not of broad extent. They are quite special, and we regard them, as the learned judge of the court below regarded them, as but incident to the amount of expenditures and to the manner of their charge upon the books of the companies. This, we repeat, is within the power of the Commission. The purpose of an investigation is the penetration of disguises or to form a definite estimate of any conduct of the carriers that may in any way affect their relation to the public. We can not assume that an investigation will be instituted or conducted for any other purpose or in mere wanton meddling. (Id., 46.)

BUREAU OF CARRIERS' ACCOUNTS.

The objects sought to be attained through the requirement of uniform accounting practices on the part of the different classes of carriers subject to the jurisdiction of the Commission have been stated in some detail in previous reports; and mention has also been made of the necessity of applying uniform and fixed principles to the special or extraordinary cases continually arising and which involve transactions or situations not specifically covered by the text of the effective accounting classifications and rules. The policy of interpreting the classifications upon request and of ruling upon accounting questions presented to the bureau, reference to which has

also been made in previous reports, has been continued, and has been found to be satisfactory to all concerned.

But a uniform system of accounts is fully effective only if it is strictly observed and applied alike by all carriers of the same class, and in order to obtain the greatest possible degree of uniformity in applying the accounting classifications to free the carriers' accounts of inaccuracies, and to prevent manipulation of the accounts or questionable practices in connection therewith on the part of those responsible for the accounts and reports, it is essential to maintain field forces for the purpose of inspecting the books, records, and memoranda of the carriers and in a measure policing their accounts and reports. The larger part of the staff of examiners of the bureau of carriers' accounts is ordinarily engaged upon work of this character. The number of examiners is limited, however, and the offices that can be visited and examinations that can be made during the course of a year is necessarily restricted.

The functions of the bureau with the beginning of the operations by the Government of the railroads and other carriers under the jurisdiction of the Commission were in some respects altered and enlarged. As to the railroads taken over by the Government certain changes in detail as to accounting and reporting are necessary because of the maintenance for each carrier of two separate organizations, one by the Government for operating and another by the carrier for financial or corporate purposes, whereas formerly but one organization was maintained. Like changes may prove to be necessary in the accounts and reports of sleeping-car, telegraph, and telephone companies, depending on the contracts to be made with such companies by the federal Government. Some provision also seems necessary for accounting for and reporting the expenditures of the administrative offices in connection with the operation of the railroads and other carriers now under Government control.

During the period from January 1, 1918, the date the accounting under federal operation of certain systems of transportation became effective, and March 21, 1918, the date of the approval of the federal control act, the activities of the bureau were directed largely toward a completion of the general examinations of accounts in the field, previously started or arranged for; to a study of the probable necessary changes in accounting practice growing out of the assumption of operations by the Government; and to the formulation of methods of conducting future examinations and the work of the field force generally in view of the changed conditions. The matter of the revision of the accounts and reports is still being prosecuted in cooperation with the carriers and those having charge of their operations. No changes are at present contemplated as to the railroads not taken over by the Government.

The value of strict uniformity in accounting has perhaps never been better illustrated than in its relation to the federal control of carriers. The uniform systems of accounts, promulgated under section 20 of the act to regulate commerce, improved as they have been from time to time by revisions of the accounting classifications, supplemented by official bulletins containing interpretations of the accounting rules, have made it practicable for the Congress to fix a basis of compensation for railroads and other systems of transportation, based upon the "average annual railway operating income" for the three-year period ended June 30, 1917, to be certified by the Commission as required by the federal control act. Some readjustment of the items affecting "average annual operating income" as stated in the reports of the carriers for the three-year period may be necessary, due to erroneous accounting, but this is a detail of relatively easy disposition.

It should be understood, however, that uniformity of accounting, so often referred to in this and previous reports, is not so far-reaching as to control, in a physical sense, what the managerial policy of any railroad or other carrier shall be; nor has the act to regulate commerce been construed by the Commission as vesting in it any such authority or power. For example, no attempt has been made to require the observance of a fixed standard of maintenance. The determination of the scale of maintenance to be followed by a carrier in the upkeep of its physical property is an exercise of the right to administer that property according to the best judgment of those to whom it has been entrusted; a right with which the Commission is not empowered to interfere.

On the other hand, depreciation, while not within the control of carriers, is an inevitable factor of operating expense, and therefore should not be ignored by them in their accounts. Its measure, however, depends to a large extent upon physical and operating conditions, which vary a great deal with different carriers and in different sections of the country. In recognition of this fact the Commission has so far permitted the carriers to determine for themselves the rate of depreciation that shall be charged, the reasonable accuracy of which, based upon its own experience, each carrier must be prepared to justify.

BUREAU OF STATISTICS.

The work of this bureau has been considerably increased, owing to the statistical requirements growing out of federal control. Many special statements have been prepared upon the request of various officials of the United States Railroad Administration. In this bureau also are prepared the computations which lie at the basis of the certificates of average annual railway operating income, which we are required to make to the President.

In making these certificates, the amount of railway operating income, as defined in the federal control act, is first ascertained from the annual reports of the carriers for the fiscal years 1915 and 1916 and the special report for the fiscal year 1917. The figure thus ascertained is modified in two particulars: (1) By charging to "Railway tax accruals" for the six months ended June 30, 1917, one-half the actual war taxes assessed for the calendar year 1917 under the act approved October 3, 1917; and (2) by charging to the appropriate operating expense accounts for the six months ended June 30, 1917, the total amount of wage increases actually earned in that period under the Adamson law. Apart from these two adjustments, the only ones to be made are such as we may now or hereafter determine and certify to be requisite in order that the accounts and reports of the company may be brought into conformity with the established accounting regulations. With the limits of the ascertainment thus set, it has been possible to proceed expeditiously in furnishing the figures for the required certificates. Where necessary for the purposes of loans or advances by the Director General to carriers, temporary statements in advance of the certificates were issued in numerous instances.

Owing to the delay in obtaining from the printer the annual report forms for the calendar year 1917, and also as a result of the large amount of accounting work occasioned by the assumption of federal control in the accounting offices of the railroads, the annual reports of the carriers were much delayed, a condition which will necessarily delay the appearance of the statistical publications relating to the year 1917. As explained in the report of last year, our statistical requirements have been considerably curtailed to reduce clerical labor of the carriers.

By notice of April 12, 1918, we limited the monthly reports of revenues and expenses of steam roads to those companies having annual operating revenues above $1,000,000.

Revised rules for reporting accidents were issued, effective as of October 1, 1918. The classes and causes of railway accidents will be analyzed more fully in order to make the statistics as useful as possible to those engaged in the work of accident prevention.

In Appendix C there are presented various figures compiled from reports on file in this bureau.

There appears first a statement of revenues, expenses, and operating income for the months in 1918 for which returns are available in comparison with those for corresponding months in 1917. The railway operating income is stated with the modifications specified in the federal control act. The first six months of 1918 show a marked decline as compared with the previous year. In June the accruals on account of retroactive wage increases were included, which fact explains

the extraordinarily poor showing for that month in operating income. In July and succeeding months the effect of increases in freight rates and passenger fares appears both in revenues and income. The railway operating income, without adjustment on account of equipment and joint facility rents, is given by months for the years 1914 to 1918.

The statement of railway accidents shows that fatalities to trespassers are much more numerous than to employees and passengers combined. The larger number of "Other nontrespassers" killed is mainly the result of grade-crossing accidents, the figures being considerably in excess of those reported last year. Of the total number of persons injured, however, the major portion are employees.

A series of tables is also included to illustrate the development of steam roads in the United States since 1908. The continuity of the tables is somewhat impaired by the change, noted in our last report, in the date of the closing of the statistical year. It will be observed that this development has been in the direction of providing relatively more facilities on existing lines rather than in the building of new roads. Until the year 1916 the miles of yard tracks and sidings increased about as rapidly as the traffic measured in loaded freight-car miles.

The operating income in relation to reported investment, while falling to a low level in 1914 and 1915, reached its maximum in 1916, when the carriers received practically 6 per cent on the investment shown by their books. The proportion of funded debt to capital stock shows but little change during the period. In the relation of net income, that is, income after payment of interest and rentals, to capital stock, the low point is the year 1915, while the year 1916 shows the highest ratio in the table. It is true, however, that the total amount accrued in dividends reached its maximum in 1911, following the prosperous year 1910, and since 1913 the proportion of stocks paying a dividend has declined. The dividends in relation to both dividend-paying stock and to all stock showed but little tendency in 1916 to recover from the low average of 1915. The tendency to an increased carload and train load is marked. The economies of an expanding traffic were in large measure offset by increasing costs of operation. When all freight and passenger traffic is reduced to a ton-mile basis, the total operating expenses per ton-mile showed little tendency to decrease. This is also true with respect to labor compensation per ton-mile. The receipts per ton-mile show some tendency to decline. It should be noted that the ton-mile basis, with a varying proportion of various classes of traffic, and with changes in the length of haul, is not an entirely reliable index of rate changes. Earnings per passenger per mile increased during this period.

BUREAU OF SAFETY.

A detailed report of the work of the Bureau of Safety is published as a separate document.

All violations of the safety appliance acts occurring subsequent to December 28, 1917, on roads operated by the Director General have not been filed with the various United States attorneys for prosecution, as has been the practice heretofore. However, all infractions of the law on such roads are being referred to the Director General to be dealt with in accordance with his Order No. 8, and suits for the penalty are being filed as to all violations occurring on roads which are privately operated. The language of Order No. 8 pertinent to this subject is as follows:

> Now that the railroads are in the possession and control of the Government, it would be futile to impose fines for violations of said laws and orders upon the Government, therefore it will become the duty of the Director General in the enforcement of said laws and orders to impose punishments for willful and inexcusable violations thereof upon the person or persons responsible therefor, such punishment to be determined by the facts in each case.

It is as yet too early to express definitely the degree of success attained under this order in comparison with the former method of instituting suit for the penalty under the statute. Under the former system there was a double purpose served by prosecutions for the penalty, that of publicity in defending such suits and the disciplinary measures taken by the carrier to prevent subsequent cases being filed. Great care must be taken to place the responsibility on the proper party regardless of position, so as not to permit the shifting thereof from officials to employees or the evasion of same in any manner. With this object in view, our inspectors are procuring the facts and circumstances surrounding every violation of the law which comes under their observation, and this information is transmitted to the Director General for action. As to the roads which are not under federal control, the information is transmitted to the several United States attorneys for prosecution in the same manner as heretofore.

The casualties on steam railroads in connection with the operation of trains during the calendar year 1917 are summarized as follows:

Class of person.	Number of persons—	
	Killed.	Injured.
Trespassers	4,243	3,829
Employees	2,781	52,780
Passengers	301	7,582
Persons carried under contract, such as mail clerks, Pullman conductors, etc	42	792
Other nontrespassers	2,200	5,987
Total of above classes	9,567	70,970

In addition, there were 520 persons killed and 123,835 injured in nontrain accidents.

SAFETY APPLIANCE ACTS.

During the calendar year ended December 31, 1917, 166 employees were killed and 2,508 injured in coupling and uncoupling cars; casualties resulting from employees coming in contact with overhead and side obstructions and from falling from and getting on and off cars occasioned 591 deaths and 16,384 injuries. This represents an increase of 30 in the number killed and 68 in the number injured in the former class of accidents, and 27 in the number killed and 447 in the number injured in the latter class of accidents, as compared with the calendar year ended December 31, 1916.

During the fiscal year, 95 cases, involving 377 counts, were transmitted to the several United States district attorneys for prosecution. Cases aggregating 66 counts were tried, of which 48 counts were decided in favor of, and 17 counts adversely to the Government, 14 of which 17 counts are now pending appeal to the Circuit Courts of Appeals and 1 count is pending decision in the District Court. In cases involving 373 counts, there were 338 confessions of judgment and 35 dismissals. In the various Circuit Courts of Appeals, there were decisions in 6 cases involving 49 counts, in 5 cases of which, involving 38 counts, judgment was in favor of the Government, while in 1 case of 11 counts, judgment was for the defendant. There are now pending in the various District Courts 145 cases involving 560 counts.

The period within which carriers subject to the safety appliance law should equip their freight cars in compliance with the standards fixed by our order of March 13, 1911, was, as to paragraphs *b*, *c*, *e*, and *f* of the original order, extended by our order of March 1, 1917, to March 1, 1918. On January 4, 1918, a hearing was held as to the matter of a further extension of time within which to comply with the provisions of those paragraphs.

At this hearing it developed that on over 100 roads having a total mileage of 258,465 miles, there were, on October 1, 1917, 181,611 freight cars which did not fully conform to the standards, particularly with respect to end-ladder clearance and brake specifications.

In view of traffic conditions and other circumstances tending to hinder equipment in accordance with the standards, we on February 1, 1918, entered an order further extending the time to comply with paragraphs *b*, *c*, *e*, and *f* of our original order for a period of 18 months from March 1, 1918, or until September 1, 1919.

JUDICIAL INTERPRETATION OF THE SAFETY APPLIANCE ACTS.

Certiorari was denied by the Supreme Court of the United States in a case in which it had been held by the Supreme Court of Iowa that under the Federal safety appliance law a carrier is answerable for the death of a brakeman resulting from the giving away of a roof

handhold on a freight car, notwithstanding that the period of time granted by the Interstate Commerce Commission for equipping cars with safety devices of the standard designated by the Commission had not expired, since such extension did not absolve the carrier from the duty cast on it by the act of maintaining secure safety devices, but merely extended the time in which cars should be equipped with safety devices of the standard prescribed by the Commission. *Union Pacific R. R. Co.* v. *Cook*, 243 U. S., 654.

The order of the Commission of June 6, 1910, which provides that "Whenever * * * any train is operated with power, or train brakes, not less than 85 per cent of the cars of such train shall have their brakes used and operated by the engineer of the locomotive drawing such train; and all power-braked cars in every such train which are associated together with the 85 per cent shall have their brakes so used and operated," was held by the Circuit Court of Appeals for the Fourth Circuit in *United States* v. *Chesapeake & Ohio Ry. Co.*, 247 Fed., 49, not to have been violated in instances where one or more cars, although power-braked, had their brakes cut out because defective, were hauled in trains in association with cars 85 per cent of which had their brakes used and operated by the engineer.

In *United States* v. *Louisville & Jeffersonville Bridge Co.*, 236 Fed., 1001, it was held to be unlawful to move a transfer of cars from Hancock Street to First Street in Louisville, Ky., a distance of 5 city blocks, without 85 per cent of the cars having their air brakes operated by the engineer. On writ of error to the Circuit Court of Appeals for the Sixth Circuit this case was, on November 16, 1917, certified to the Supreme Court and is now pending decision.

In *Grand Rapids & Indiana Ry. Co.* v. *United States*, decided by the Circuit Court of Appeals for the Sixth Circuit on February 16, 1918, the judgment of the trial court, reported in 244 Fed., 609, was affirmed, holding that the safety appliance acts imposed an absolute duty to control the speed of trains by the use of power brakes and render unlawful the use of hand brakes for that purpose.

The same Circuit Court of Appeals on April 5, 1918, in *Chesapeake & Ohio Ry. Co.* v. *United States*, 249 Fed., 805, held that to justify the movement of a car defectively equipped as to safety appliances, under the provisions of the amendment of April 14, 1910, one of the necessary conditions to be established by the carrier is that at the time of the movement the defects complained of had been discovered by some agent of that carrier. In construing this amendment, the District Court for the Middle District of Tennessee, on November 15, 1917, held, in *United States* v. *Louisville & Nashville Terminal Co., et al*, that the movement of a defective car from the point of discovery of the defect to its destination for unloading

preparatory to its being taken to the shops for repairs, is unlawful, such movement not being necessary for the purpose of repairs. To the same effect is a decision by the Circuit Court of Appeals for the Eighth Circuit, on February 18, 1918, in *Denver & Rio Grande Railroad Co.* v. *United States*, 249 Fed., 822, wherein it was also held that chained cars may not be moved even for repair in revenue trains or in association with other cars commercially used; that a train is a revenue train when it is moved for the purpose of transporting traffic for revenue; and that cars are commercially used whether containing traffic, or moving empty to points for the purpose of receiving traffic.

HOURS-OF-SERVICE ACT.

During the year there were transmitted to the several United States district attorneys for prosecution 60 cases, involving 529 counts. Cases aggregating 154 counts were tried, of which 85 were decided in favor of, and 64 adversely to the Government. In cases involving 780 counts there were 626 confessions of judgment and 154 dismissals. In the various Circuit Courts of Appeals there were decisions in 7 cases involving 187 counts, in 172 counts of which judgment was in favor of the Government, and in 15 counts judgment was for the defendant. In 2 cases involving 120 counts, in which judgment for the Government was affirmed by the Sixth Circuit Court of Appeals, the defendant has applied to the Supreme Court for a writ of certiorari. This application is pending decision. There are also pending decision before the latter court on writs of certiorari, 2 cases involving 29 counts, and before three Circuit Courts of Appeals on writs of error 3 cases involving 23 counts. Pending trial in the various District Courts are 111 cases involving 1,174 counts.

JUDICIAL INTERPRETATION OF THE HOURS OF SERVICE ACT.

A number of cases involving alleged excess service of train crews have been tried, wherein the defense interposed was that service beyond the 16-hour limitation charged by the Government did not in fact arise for the reason, claimed by the carriers, that the members of the crews at points between the initial and final terminals were released from duty for such periods of time that, making allowance for such periods as being off-duty periods, the actual time on duty was less than 16 hours. Three such cases have been considered by Circuit Courts of Appeals as follows: *Minneapolis & St. Louis R. R. Co.* v. *United States*, 245 Fed., 60, decided by the Circuit Court of Appeals for the Eighth Circuit on July 21, 1918; *United States* v. *Southern Pacific Co.*, 245 Fed., 722, decided by the Circuit Court of Appeals for the Ninth Circuit on October 22, 1917; and *Pennsylvania R. R. Co.* v. *United States*, 246 Fed., 881, decided by the Circuit Court of Appeals for the Third Circuit on December 19, 1917.

In the case decided in the Eighth Circuit the crews were engaged in turn-around service; the releases were at the turn-around terminal; and were absolute, and ranged from 2 hours to 2 hours and 30 minutes. The case was tried to a court and the jury waived. In affirming the judgment of the trial court in favor of the Government, it was held that the periods of release did not, under the circumstances, break the continuity of service. A writ of certiorari was denied by the Supreme Court on November 26, 1917.

In the case decided in the Ninth Circuit the releases were at division terminals; ranged from 1 hour to 1 hour and 30 minutes, while refrigerator cars were being iced and trains broken up and made up; the period of release, if specified, was subject to change, requiring the men to hold themselves in readiness and to be within reach in case their services were needed at any time within the designated period. In reversing the judgment of the trial court in favor of the defendant, it was held that these releases were on duty periods, the court saying that the Government's request to charge the jury that a release, to break the continuity of service, must be such that it permits the employee to be absolutely free to come and go at will without being restricted by any fear that he may be wanted during the period of release, should have been granted.

The releases involved in the case decided in the Third Circuit were to pusher-engine crews, and were for indefinite periods ranging from 35 minutes to 2 hours, dependent on the time of arrival of freight trains demanding helper service over the mountain grades. During the time so released they were subject to call, being required to remain within calling distance; were paid for such time at the regular rates; but relieved from the care of their engines, and at some of the points involved there were rest houses furnished by the carrier for the use of such crews. Reversing the judgment of the trial court in favor of the Government, the court held that the times during which released should be computed as off-duty periods.

On July 12, 1917, the Circuit Court of Appeals for the Seventh Circuit held in *Chicago & A. R. Co.* v. *United States*, 244 Fed., 945, that switch tenders who also engage in receiving and transmitting telephone orders originating from the office of a yardmaster and which relate to the movements of trains through the defendant's Bloomington-Normal yard in Illinois, are employees subject to that provision of the hours of service law pertaining to telegraph and telephone operators as distinguished from those employees connected with train movements and who come under the 16-hour provision. On writ of certiorari the Supreme Court, on May 30, 1918, affirmed this judgment, 247 U. S., 197.

In *Indiana Harbor Belt Ry. Co.* v. *United States*, 244 Fed., 943, the Circuit Court of Appeals for the Seventh Circuit, on July 24, 1917,

held that under the provisions of the hours of service act, a delay to a train crew for a specified time, due to an exempting clause named in the proviso of section 3, does not automatically extend the 16-hour limitation to the extent of such delay, but, as a matter of defense, the carrier must show that it exercised a high degree of diligence to overcome the effect of such delay and to avoid excess service.

In *Atchison, Topeka & Santa Fe Ry. Co.* v. *United States*, 251 Fed., 261, decided by the Circuit Court of Appeals for the Ninth Circuit on May 21, 1918, it was held that the carrier had not made out a defense by merely showing that the excess service of the train crews involved did not exceed the amount of time delayed by unavoidable accident, but, it appearing that they were kept on duty periods ranging from 1 hour to 2 hours and 35 minutes in excess of the 16-hour limitation, and that the regular running time for the crews was 12 hours, the court sustained the trial court in directing a verdict against the defendant because of its failure to sustain the burden of proof by showing the necessity for the four additional hours of service.

The District Court for the Southern District of Florida, on August 1, 1917, in *United States* v. *Charlotte Harbor & Northern Ry. Co.*, 243 Fed., 324, held that the derailment of a car in a train resulting in service of employees beyond 16 hours is not a defense to an action for penalties, unless it be made to appear that the derailment occurred through no fault or negligence of the carrier, its agents, or servants.

The service of an employee, primarily an engine watchman, in the capacity of a locomotive fireman for a period of 1 hour and 55 minutes followed by service as watchman on idle engines for a period making a total service in excess of 16 hours, was held by the District Court of Idaho on October 18, 1917, in *United States* v. *Oregon Short Line Railroad Co.*, not to be unlawful.

In *United States* v. *Delano, et al., Receivers Wabash Railroad Co.*, 246 Fed., 107, decided by the Circuit Court of Appeals for the Seventh Circuit on October 2, 1917, it was held that the proviso of section 3 of the hours-of-service law as to casualty, unavoidable accident, etc., applies to telegraphers as well as to trainmen, but ruled that 15 hours' service of an operator in a continuously operated office arising by reason of sickness of another operator was unlawful, it appearing that still another operator was at hand whose service, if availed of, would have prevented employment in excess of the limitation of 13 hours in case of emergency.

In *United States* v. *Denver & Rio Grande Railroad Company*, 249 Fed., 464, decided by the Circuit Court of Appeals for the Eighth Circuit on February 23, 1918, it was held that the defendant was liable for a violation of the statute in "permitting" excess service of a telegraph operator, a joint employee of the defendant and another carrier,

who, in the performance of his duties for each company, received instructions from the train dispatcher and other officials of that company, the regular tour of duty being from 7.15 a. m. to 7.15 p. m., but who, on the day in question, without the knowledge of the defendant, and in response to an order from the dispatcher of the other carrier, worked in excess of the statutory limitation, 13 hours, until the hour of 8.45 p. m.

In *United States* v. *Minneapolis, St. Paul & Sault Ste. Marie Ry. Co.*, 250 Fed., 382, decided by the Circuit Court of Appeals for the Eighth Circuit on March 11, 1918, it was held that a telegraph office regularly open from 7 a. m. to 6 p. m., closed one hour in the middle of the day for dinner, and on one of the days involved open from 12.35 a. m. to 1.13 a. m. and from 4.20 a. m. to 4.51 a. m., the office hours on the other days in question being not materially different, was an office operated only during the daytime and not one continuously operated night and day within the meaning of the statute, and that, consequently, service thereat by an operator in excess of 9 hours, but less than 13 hours, was not unlawful.

INVESTIGATION OF ACCIDENTS.

During the year ended June 30, 1918, there were 91 train accidents investigated by the Commission. In these accidents, comprising 63 collisions and 28 derailments, 374 persons were killed and 1,730 were injured; the collisions investigated caused the death of 295 persons and the injury of 1,165 persons, while in the derailments investigated 79 persons were killed and 565 were injured.

Twenty-six of these collisions occurred on block-signaled lines, 13 in automatic block-signal territory, and 13 in nonautomatic block-signal territory; 1 occurred within the limits of an interlocking plant; five occurred on track where yard rules were in effect, while 31 occurred on lines operated by the train-order and time-interval system.

Of the 13 collisions investigated which occurred in automatic block-signal territory, 8 were due to failure of enginemen to heed automatic block-signal indications, and 1 was caused by failure of a train crew to obey a rule requiring a train on a siding to wait two minutes after the switch was opened before pulling out on the main line; in the other 4 cases the signal system in use was not involved, 2 of these accidents being due to trains running away on mountain grades and 2 involving trains running against the current of traffic, which movements were governed by train orders.

The most disastrous accident investigated during the year, which resulted in the death of 60 persons and the injury of 128, occurred on a line operated by a modern automatic block-signal system; it was caused by an engineman falling asleep and failing to see a stop

signal. In the report upon this accident it was pointed out that since accident investigations were begun in 1911 approximately 10 per cent of the total number of accidents investigated were caused primarily by the disregard of signal indications. As many of these accidents occurred on lines equipped with the best signal systems, properly installed and maintained, the urgent need of some further safeguard such as automatic devices designed to compel obedience to signal indications is apparent.

With but two or three exceptions the collisions investigated which occurred in nonautomatic block-signal territory were caused by lax practices and nonobservance of rules. The investigations disclosed that in many instances little if any additional protection, as compared with the train-order and time-interval system, was afforded, and the principal need disclosed by the investigation of these accidents is for closer supervision as well as strict adherences to the methods and practices prescribed for the operation of the nonautomatic block system.

One collision at a railroad crossing was due to an interlocking signal and a derail being out of order and the operator failing to protect movements over the crossing.

Of the 5 yard accidents investigated, 2 were due to errors on the part of switch tenders, and 3 were caused by disregard by trainmen of rules governing the operation of trains within yard limits.

Approximately half of the collisions investigated during the year occurred on lines operated by the train-order and time-interval system, and many of them were due to the inherent weaknesses of that system of train operation. Nine of these collisions were due to errors in issuing, transmitting, or observing train orders; 7 were caused by trains occupying the main track on the time of superior trains without proper protection, and 7 others were caused by failure of flagmen properly to protect their trains; 4 were caused by failure of enginemen to obey prescribed speed restrictions, and 4 were due to purely local conditions and causes.

The inherent weaknesses of the train order and time interval system of operation have frequently been pointed out in previous reports. Many of the collisions investigated during the year could have been prevented by the proper application of block signal principles, and it is beyond question that the adoption of the block system on lines now operated by the train-order system would result in a material reduction in the annual casualty record.

We call attention to recommendations in previous reports relating to the standardization of railroad operating rules. In addition to the feature of increased safety which would result from uniformity in operating rules, accident investigations frequently disclose situations where safety conditions would be materially improved by the appli-

cation and interpretation of rules which are now in effect on the more advanced and progressive roads of the country.

In many sections of the country railroads are experiencing difficulty in securing experienced and competent men. Instances have been disclosed where mere boys have been employed as operators, with little or no experience and training; one of the collisions investigated was caused by an error of an operator who was only 16 years of age and who had had practically no instruction or training with regard to the duties he was expected to perform. In view of the abnormal industrial conditions from which such cases as this one arise, attention is called to the necessity for extraordinary zeal in the instruction and examination of employees, as well as constant supervision to insure that proper practices are being followed.

Of the 28 derailments investigated 17 were caused by defective track and 3 were due to defective equipment; in 3 other cases the speed of the trains was the primary cause; in 3 cases the derailments occurred on account of local conditions, and in two investigations the causes of the derailments were not definitely ascertained.

To secure proper track maintenance constant inspection, necessary repair work, and renewal of worn materials are essential. If the abnormal demands for steel and steel products have resulted or do result in curtailment of the supply of new rails available, and the continued use of worn rails, this fact, together with increased traffic in many parts of the country, requires that more than ordinary precautions in the matter of inspection and repair be taken. Thorough inspection must also be relied upon to insure the safety of equipment.

INVESTIGATION OF SAFETY DEVICES.

Under authority of the act of October 22, 1913, tests have been conducted during the past fiscal year of an air-brake system. A detailed report upon this device will be transmitted to the Congress separately.

During the year plans of 93 devices were examined and opinions thereon transmitted to the proprietors.

The annual statistical report of January 1, 1918, published by this bureau indicates a net increase during the year of 1,123.8 miles of road operated by the block system, the total miles of road operated by the block system on January 1, 1918, being 99,531.7 miles.

BUREAU OF LOCOMOTIVE INSPECTION.

The work of the bureau of locomotive inspection during the fiscal year ended June 30, 1918, is shown in detail in the report of the chief inspector, published separately.

The tables appearing below show, in condensed form, the number of locomotives inspected, the number and percentage found defective,

and the number ordered out of service on account of not meeting the requirements of the law. They also show the total number of accidents due to failure from any cause of locomotives and tenders and all parts and appurtenances thereof, and the number killed or injured thereby.

LOCOMOTIVES INSPECTED, NUMBER FOUND DEFECTIVE, AND NUMBER ORDERED OUT OF SERVICE.

	1918	1917	1916
Number of locomotives inspected	41,611	47,542	52,650
Number found defective	22,196	25,909	24,685
Percentage found defective	53	54.5	47
Number ordered out of service	2,125	3,294	1,943

NUMBER OF ACCIDENTS, NUMBER KILLED, AND NUMBER INJURED, BY COMPARISON

	1918	1917
Number of accidents	641	616
Increase over previous year.....per cent..	4.1	.....
Number killed	46	62
Decrease from previous year.....per cent..	25.8	.....
Number injured	756	721
Increase over previous year.....per cent..	4.8	.....

The following table shows the total number of persons killed and injured by failure of locomotives or tenders, or any part or appurtenance thereof, during the three years ended June 30, 1916–1918, classified according to occupations:

	1918		1917		1916	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
Members of train crews:						
Engineers	11	245	16	230	11	205
Firemen	19	306	21	304	12	225
Brakemen	6	62	13	60	9	74
Conductors	.....	21	3	14	1	6
Switchmen	2	8	1	8	.....	6
Roundhouse and shop employees:						
Boiler makers	1	11	.....	11	1	11
Machinists	.....	11	.....	8	1	11
Foremen	1	4	.....	1	1	3
Inspectors	4	4	.....	3	.....	3
Watchmen	.....	3	.....	5	.....	8
Boiler washers	.....	4	.....	7	.....	10
Hostlers	.....	8	.....	6	.....	6
Other roundhouse and shop employees	2	19	2	19	1	21
Other employees	.....	26	5	22	.....	7
Nonemployees	.....	24	1	23	1	3
Total	46	756	62	721	38	599

Summarizing, for the purpose of comparison, accidents and casualties resulting therefrom during the year shows an increase of 4.1 per cent in the number of accidents, with a decrease of 25.8 per cent in the number killed, and an increase of 4.8 per cent in the number injured.

The decrease in the number of locomotives inspected during the year is due to the fact that a substantial percentage of the inspectors of locomotives were engaged in special work during most of the year. During November and December, 1917, and January, February, and March, 1918, almost all inspectors were directed to check the congestion at terminals in an effort to see that locomotives were properly furnished so that the coal movement might be facilitated and the fuel shortage relieved. This work contributed materially toward breaking the blockade and expediting the movement of coal and other freight. A number of inspectors of locomotives were permanently transferred to the service of the Director General because of their general knowledge of equipment and their special training in the work of conducting investigations.

The period covered by this report was the most difficult in the history of American railroads in which properly to maintain locomotives. This is primarily due to the war conditions, which made it necessary to use to their maximum capacity all locomotives that were serviceable and to return to service many locomotives that had been out of service for years awaiting disposition, and which in some cases, were put in service without having been thoroughly repaired. Proper maintenance of locomotives was also made difficult by the large number of mechanics who entered military service. The unusual demands for power resulted in the use of many locomotives in violation of Federal laws, no doubt, with the thought that the movement of traffic was being expedited thereby, but the results of this practice were clearly demonstrated during the past winter.

During the year, 353 applications were filed for extension of time for removal of flues under the provisions of rule 10. Investigation showed 18 of these locomotives in such condition that no extension could properly be granted. Forty-two were in such condition that the full extension requested could not be granted, but an extension for a shorter period was allowed. Thirteen extensions were granted after defects disclosed by our inspectors had been repaired. Sixty-two applications were withdrawn for various reasons, and the remaining 218 were granted for the full period asked for. It will be noted that the number of applications for extension of time for removal of flues decreased about 50 per cent.

As provided in rule 54, 3,124 specification cards and 8,080 alteration reports were filed.

The locomotive headlight case, which has been pending for approximately three years, was finally disposed of June 7, 1918, by the withdrawal by the complainant and at the complainant's cost of bill in equity No. 226, United States District Court, District of Indiana, *New York Central Railroad Company* v. *United States*, in which it was sought to restrain the Commission from making an order prescribing a test which headlights must meet.

BUREAU OF VALUATION.

It was stated in our report for the year 1917 that the field work of the engineering section would be completed during the year 1919. While the war has interfered with the prosecution of this work to a greater degree during the current year than before, it is still hoped that this limit can be met. From October 1, 1917, to September 30, 1918, our road and track parties covered 53,244.56 miles of main line and 81,469.73 miles of all tracks, which was in excess of any previous year. Some districts will finish slightly in advance of others, but it is still believed that our engineering field work can be substantially accomplished by January 1, 1920.

Our last report stated that the office work of the engineering section should be finished during the year 1920, but in view of the experience of the current year that statement must be somewhat modified. The effect of the war upon the office forces has been much more serious than in the field. For some reason it has been more difficult to maintain the integrity of that force, it having several times happened that more than 25 per cent of the office employees in a given district have changed during a single month. It is impossible to predict just what the effect of this will be, but unless conditions become worse, not much additional time will be required.

Our land section has not seriously felt, either in the field or the office, the effect of the war, but that section can not produce completed reports until certain information is received from the carriers as to their lands; and inability to obtain this has limited the progress of this section. At the present time carriers are doing fairly well in this respect and it is expected that this section will complete its work within the year 1920.

The greatest difficulty has been experienced by our accounting section in obtaining and retaining competent accountants owing to demands for this kind of service both by the Government and by private enterprises. The needed information can be readily collected from the books of the carriers, but it is difficult to find men who are competent to put this into the form of a completed report. The field work of this section will be finished in the first half of the year 1920, but there may be some delay in the preparation of final reports.

Attention is again called to the fact that, owing to the failure of carriers to furnish necessary information as to their equipment, and especially as to their lands, it is found necessary to stop work upon particular properties and proceed with other properties. To-day the work of the bureau in all branches is well advanced upon every considerable road in the country and is approaching completion upon many of the most important, but reports have been delayed

by the lack of this information. Carriers did not realize at the outset the difficulties involved in compiling the original cost of their lands and unreasonably delayed the beginning of that work.

On the whole it is believed that while the war has seriously affected this work it will not greatly postpone the period of final completion nor increase the total expense.

Reports in the first contested cases which were exhaustively presented, in which the methods and principles employed have been stated, have been transmitted to Congress for its information. The methods and principles there stated are being applied to valuations now before us and will be followed in the further progress of our work.

STANDARD TIME ZONE INVESTIGATION.

By the act of Congress approved March 19, 1918, entitled "An act to save daylight and to provide standard time for the United States," we were directed to define by order the limits of the standard time zones provided by that act, having regard for the convenience of commerce and the existing junction points and division points of common carriers engaged in commerce between the several states and with foreign nations.

But 11 days intervened between the approval of the act and the last Sunday in March, 1918, when the act required that the standard time in each of the zones fixed should be advanced one hour. The interval of time being wholly insufficient for the detailed examination requisite to the prescribing of the limits of the several zones in the manner required by the law, an interim order was entered by us which, in effect, fixed the limits of the United States standard eastern, central, mountain, and Pacific time zones as those within which as to each common carrier, locality, body politic, public authority, or person, natural or artificial, subject to the act and affected thereby, the times known as eastern, central, mountain, and Pacific time were observed and used, respectively.

Immediately a comprehensive investigation was commenced by us upon our own motion in order that the limits of each zone might be defined with some assurance of permanency, with regard to the convenience of commerce and the existing junction points and division points of interstate common carriers. Wide publicity was given to the proceeding, and public hearings were held throughout the country. Tentative limits of the four zones were indicated in a proposed report which was furnished to each railroad, the Director General of Railroads, the governors of the states, and to the mayors of more than 250 cities which were thought to be affected by the changes in zone limits proposed. Upon consideration of the exhaustive record the Commission has by order prescribed the limits for the first four zones, effective January 1, 1919, 51 I. C. C., 273,

The adjustment accomplished leaves 32 states intact and 4 other states practically wholly within the limits of a single time zone, and has considerably lessened the number of time-breaking points of interstate carriers.

The act provides that the standard time of the fifth zone, which shall include only Alaska, shall be based upon mean astronomical time of the 150° of longitude west from Greenwich, and shall be known and designated as United States standard Alaska time. Representations were made to the Commission to the effect that the mainland of Alaska extends from approximately 130° to 168° west of Greenwich which, translated into time, is more than two and one-half hours. As interpreted by us, the act of Congress did not vest any discretion in the Commission as to the standards of time to be observed in Alaska and the remedy for the situation rests with Congress. We have also interpreted the act as applicable only to "the territory of continental United States" and, therefore, as not controlling in the Hawaiian Islands.

STATEMENT OF APPROPRIATIONS AND EXPENDITURES AND OF PERSONS EMPLOYED BY THE COMMISSION.

Statement of appropriations and aggregate expenditures for the Interstate Commerce Commission for the fiscal year ended June 30, 1918.

Sundry civil act June 12, 1917:		
For salaries of Commissioners	$70,000.00	
For salary of secretary	5,000.00	
Deficiency act of Oct. 6, 1917, effective Sept. 1, 1917:		
For salaries of Commissioners	16,666.66	
		$91,666.66
Sundry civil act of June 12, 1917—For all other authorized expenditures necessary in the execution of laws to regulate commerce:		
General	1,100,000.00	
Deficiency act of June 4, 1918	60,000.00	
Repayment on account of stores furnished to the railroad administration	7,537.93	
		1,167,537.93
Sundry civil act of June 12, 1917—To further enable the Interstate Commerce Commission to enforce compliance with section 20 of the act to regulate commerce as amended by the act approved June 29, 1906, including the employment of necessary special agents or examiners		300,000.00
Sundry civil act of June 12, 1917—To enable the Interstate Commerce Commission to keep informed regarding compliance with acts to promote the safety of employees and travelers upon railroads, investigation and testing of block-signal and train control systems, and the investigation of hours of service, including the employment of inspectors		250,000.00
Sundry civil act of June 12, 1917—For the payment of all authorized expenditures under the provisions of the act of Feb. 17, 1911, "To promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their locomotives with safe and suitable boilers and appurtenances thereto"		225,000.00

Sundry civil act of June 12, 1917—To enable the Interstate Commerce Commission to carry out the objects of the act approved Mar. 1, 1913, providing for the valuation of the several classes of property of carriers:		
Valuation	$3,500,000.00	
Repayment on account of stores furnished to the railroad administration	358.04	
		$3,500,358.04
Sundry civil act of June 12, 1917—Five and ten per cent increase of compensation, Interstate Commerce Commission		132,412.48
Total		5,666,975.12
Amounts expended under appropriations for the fiscal year ended June 30, 1918:		
As salaries to Commissioners and secretary	$86,888.89	
All other authorized expenditures	1,145,705.23	
Examination of accounts, act approved June 29, 1906	273,630.80	
Safety appliance, block-signal, and hours of service	239,055.39	
Locomotive inspection, act approved Feb. 17, 1911	210,389.81	
Valuation	3,384,444.31	
Increase of compensation	132,412.49	
		5,472,526.92
Unexpended balance of appropriations:		
As salaries to Commissioners	4,777.77	
All other authorized expenditures from general appropriation	21,832.70	
Examination of accounts, act approved June 29, 1906	26,369.20	
Safety appliance, block-signal, and hours of service	10,944.61	
Locomotive inspection, act approved Feb. 17, 1911	14,610.19	
Valuation	115,913.73	
		194,448.20
Total		5,666,975.12

A detailed statement showing the names of employees and expenditures for the fiscal year ended June 30, 1918, constitutes Part II of this report.

WINTHROP M. DANIELS, *Chairman.*
EDGAR E. CLARK.
JAMES S. HARLAN.
CHARLES C. MCCHORD.
BALTHASAR H. MEYER.
HENRY C. HALL.
CLYDE B. AITCHISON.
ROBERT W. WOOLLEY.

APPENDIX A.

INDICTMENTS RETURNED AND CASES CONCLUDED.

Summary of indictments returned between November 1, 1917, and October 31, 1918, inclusive, for violations of the act to regulate commerce and the Elkins act.

Summary of cases arising from violations of the above acts concluded between November 1, 1917, and October 31, 1918, inclusive, and sentences imposed.

SUMMARY OF INDICTMENTS RETURNED BETWEEN NOVEMBER 1, 1917, AND OCTOBER 31, 1918, INCLUSIVE.

United States *v.* Alabama & Mississippi Railroad Co., District Court, Southern Alabama, May 4, 1918, indictment charging transportation of property free of charge in violation of the Elkins act; 10 counts.

United States *v.* Mary E. Albright and William A. Johnson, District Court, Indiana, May 24, 1918, indictment charging violation of section 1 of the act; 1 count.

United States *v.* American Cast Iron Pipe Co., District Court, Northern Alabama, March 6, 1918, indictment charging accepting and receiving concessions; 15 counts.

United States *v.* L. Biedel, District Court, Eastern South Carolina, May 23, 1918, indictment charging the filing of a false claim; 1 count.

United States *v.* Wm. Bonifas Lumber Co., District Court, Western Michigan, September 11, 1918, indictment charging accepting and receiving concessions; 1 count.

United States *v.* Boynton Lumber Co., District Court, New Jersey, July 26, 1918, indictment charging accepting and receiving discriminations and concessions; 10 counts.

United States *v.* Butte, Anaconda & Pacific Railway Co., District Court, Montana, June 25, 1918, indictment charging grant of rebates and concessions to the United Metals Selling Co.; 6 counts.

United States *v.* C. & H. Lumber Co. and Charles S. Creelman, District Court, Eastern Virginia, September 13, 1918, indictment charging accepting and receiving concessions; 10 counts.

United States *v.* Chicago & North Western Railway Co., District Court, Eastern Wisconsin, October 9, 1918, indictment charging grant of concessions to Menominee Bay Shore Lumber Co., Holt Lumber Co., and Crocker Chair Lumber Co.; 3 counts.

United States *v.* Chicago & North Western Railway Co., District Court, Western Michigan, September 11, 1918, indictment charging grant of concession to Wm. Bonifas Lumber Co.; 1 count.

United States *v.* Chicago, Milwaukee & St. Paul Railway Co., District Court, Western Michigan, September 11, 1918, indictment charging grant of concessions to Sagola Lumber Co.; 1 count.

United States *v.* Coastwise Lumber & Supply Co., District Court, New Jersey, July 26, 1918, indictment charging accepting and receiving discriminations and concessions; 10 counts.

United States *v.* Crocker Chair Lumber Co., District Court, Eastern Wisconsin, October 9, 1918, indictment charging accepting and receiving concessions from Chicago & North Western Railway Co.; 1 count.

United States *v.* Ira R. Crouse, District Court, New Jersey, July 26, 1918, indictment charging accepting and receiving discriminations and concessions; 10 counts.

United States *v.* Thomas F. DeGraw, District Court, Southern New York, January 8, 1918, indictment charging conspiracy to sell tickets at less than tariff rates; 1 count.

United States *v.* Ferger Grain Co., District Court, Southern Ohio, May 6, 1918, indictment charging soliciting, accepting, and receiving rebates; 20 counts.

United States *v.* August Ferger, Thomas Dugan, and Robert H. Rasch, District Court, Southern Ohio, November 7, 1917, indictment charging uttering, with intent to defraud, false bills of lading; 12 counts.

United States *v.* John Francis, alias John Hawkshaw, District Court, Eastern Tennessee, December 4, 1917, indictment charging violation of antipass act; 1 count.

United States *v.* Franklin Lumber Co., District Court, New Jersey, July 26, 1918, indictment charging accepting and receiving discriminations and concessions; 10 counts.

United States *v.* Goodman Lumber Co., District Court, Eastern Wisconsin, October 9, 1918, indictment charging accepting and receiving concessions from Minneapolis, St. Paul & Sault Ste. Marie Railway Co.; 1 count.

United States *v.* The Heidritter Lumber Co. and its Vice President, Frank R. Wallace, District Court, New Jersey, July 26, 1918, indictment charging accepting and receiving discriminations and concessions; 10 counts.

United States *v.* Holt Lumber Co., District Court, Eastern Wisconsin, October 9, 1918, indictment charging accepting and receiving concessions from Chicago & North Western Railway Co.; 1 count.

United States *v.* Patrick J. Hughes, District Court, Western Missouri, April 23, 1918, indictment charging violation of the antipass act; 1 count.

United States *v.* R. S. Huntington and E. E. Huntington, District Court, Southern Iowa, December 4, 1917, indictment charging conspiracy to violate section 1 of the act; 1 count.

United States *v.* George A. Johnson and William L. Carmichael, District Court, Southern New York, January 8, 1918, indictment charging conspiracy to sell tickets at less than tariff rate; 1 count.

United States *v.* Kneeland McLurg Co., District Court, Western Wisconsin, October 19, 1918, indictment charging accepting and receiving concessions from Minneapolis, St. Paul & Sault Ste. Marie Railway Co.; 1 count.

United States *v.* Rudolph Levine, District Court, Southern New York, January 8, 1918, indictment charging the filing of a false claim with the Delaware, Lackawanna & Western Railroad Co.; 2 counts.

United States *v.* Medford Lumber Co., District Court, Western Wisconsin, October 19, 1918, indictment charging accepting and receiving concessions from Minneapolis, St. Paul & Sault Ste. Marie Railway Co.; 1 count.

United States *v.* Mellen Lumber Co., District Court, Western Wisconsin, October 19, 1918, indictment charging accepting and receiving concessions from Minneapolis, St. Paul & Sault Ste. Marie Railway Co.; 1 count.

United States *v.* Menominee Bay Shore Lumber Co., District Court, Eastern Wisconsin, October 9, 1918, indictment charging accepting and receiving concessions from Chicago & North Western Railway Co.; 1 count.

United States *v.* Metropolitan Lumber Co. and its agent, Jacob Jacobson, District Court, New Jersey, July 26, 1918, indictment charging accepting and receiving discriminations and concessions, 10 counts.

United States *v.* Minneapolis, St. Paul & Sault Ste. Marie Railway Co., District Court, Western Michigan, September 11, 1918, indictment charging grant of concessions to Northwestern Cooperage & Lumber Co. and Wisconsin Land & Lumber Co.; 2 counts.

United States *v.* Minneapolis, St. Paul & Sault Ste. Marie Railway Co., District Court, Eastern Wisconsin, October 9, 1918, indictment charging grant of concessions to Goodman Lumber Co.; 1 count.

United States *v.* Minneapolis, St. Paul & Sault Ste. Marie Railway Co., District Court, Western Wisconsin, October 19, 1918, indictment charging grant of concessions to Medford Lumber Co., Mellen Lumber Co., Kneeland McLurg Co., Park Falls Lumber Co., and J. S. Owen Lumber Co.; 5 counts.

United States *v.* Northwestern Cooperage & Lumber Co., District Court, Western Michigan, September 11, 1918, indictment charging accepting and receiving concessions from Minneapolis, St. Paul & Sault Ste. Marie Railway Co.; 1 count.

United States *v.* Northwestern Pacific Railroad Co., District Court, Northern California, May 6, 1918, indictment charging destruction of railroad records; 1 count.

United States *v.* J. S. Owen Lumber Co., District Court, Western Wisconsin, October 19, 1918, indictment charging accepting and receiving concessions from Minneapolis, St. Paul & Sault Ste. Marie Railway Co.; 1 count.

United States *v.* Park Falls Lumber Co., District Court, Western Wisconsin, October 19, 1918, indictment charging accepting and receiving concessions from Minneapolis, St. Paul & Sault Ste. Marie Railway Co.; 1 count.

United States *v.* Pennsylvania Railroad Co., Armour & Co., Swift & Co., and the Jersey City Stock Yards Co., District Court, Southern New York, August 5, 1918, indictment charging conspiracy to violate the Elkins act; 5 counts.

United States *v.* Pennsylvania Railroad Co., Armour & Co., Swift & Co., and the Jersey City Stock Yards Co., District Court, Southern New York, August 5, 1918, indictment charging conspiracy to violate the Elkins act; 1 count.

United States *v.* Perrin & Buckelew, (Inc.), District Court, New Jersey, July 26, 1918, indictment charging accepting and receiving discriminations and concessions; 10 counts.

United States *v.* Austin I. Robbins and William L. Carmichael, District Court, Southern New York, January 8, 1918, indictment charging conspiracy to sell tickets at less than tariff rate; 1 count.

United States *v.* Sagola Lumber Co., District Court, Western Michigan, September 11, 1918, indictment charging accepting and receiving concessions from Chicago, Milwaukee & St. Paul Railway Co.; 1 count.

United States *v.* S. Samuels, District Court, Southern Texas, March 19, 1918, indictment charging false billing; 5 counts accepting and receiving concessions; 2 counts; and filing of a false claim; 1 count.

United States *v.* Southern Lumber Co. and its agent, David Jacobson, District Court, New Jersey, July 26, 1918, indictment charging accepting and receiving discriminations and concessions; 10 counts.

United States *v.* Wisconsin Land & Lumber Co., District Court, Western Michigan, September 11, 1918, indictment charging accepting and receiving concessions from Minneapolis, St. Paul & Sault Ste. Marie Railway Co.; 1 count.

SUMMARY OF CASES CONCLUDED IN UNITED STATES DISTRICT COURTS BETWEEN NOVEMBER 1, 1917, AND OCTOBER 31, 1918, INCLUSIVE.

United States *v.* Fred L. Aarons, District Court, Minnesota, indictment charging conspiracy to violate section 1 of the act. December 4, 1917, plea of guilty entered and fine of $100 imposed.

United States *v.* American Cast Iron Pipe Co., District Court, Northern Alabama, indictment charging accepting and receiving concessions. September 18, 1918, verdict of not guilty.

United States *v.* Mary E. Albright and William A. Johnson, District Court, Indiana, indictment charging violation of section 1 of the act. June 6, 1918, plea of guilty entered by William A. Johnson and fine of $200 imposed; nolle prosequi entered as to Mary E. Albright.

United States *v.* Peter N. Berg, District Court, Northern California, indictment charging the filing of a false claim in connection with The Moran Co. November 15, 1917, case dismissed because of death of defendant.

United States *v.* Peter N. Berg, District Court, Northern California, indictment charging the filing of a false claim in connection with Richard L. Stevens. November 15, 1917, case dismissed because of death of defendant.

United States *v.* L. Biedel, District Court, Eastern South Carolina, indictment charging the filing of a false claim. June 3, 1918, verdict of guilty. June 17, 1918, fine of $100 and imprisonment for 10 days in jail imposed.

United States *v.* John Burke, District Court, Minnesota, indictment charging violation of section 1 of the act. December 18, 1917, plea of guilty entered and fine of $100 imposed.

United States *v.* George Burt, District Court, Minnesota, indictment charging conspiracy to violate section 1 of the act. December 4, 1917, plea of guilty entered and fine of $100 imposed.

United States *v.* Butte, Anaconda & Pacific Railway Co., District Court, Montana, indictment charging grant of rebates and concessions to the United Metals Selling Co. July 15, 1918, demurrer to indictment sustained.

United States *v.* Roy Campbell, District Court, Southern Texas, indictment charging accepting and receiving concessions. December 5, 1917, nolle prosequi entered.

United States *v.* J. H. Crosby, District Court, Minnesota, indictment charging violation of section 1 of the act. December 5, 1917, plea of guilty entered and fine of $100 imposed.

United States *v.* John H. Davis, president, Roy Campbell, sales manager, and Arch McFarland, traffic manager, of Southern Texas Truck Growers Association, District Court, Southern Texas, indictment charging conspiracy to violate the Elkins act. December 5, 1917, nolle prosequi entered.

United States *v.* Thomas F. DeGraw, District Court, Southern New York, indictment charging conspiracy to sell tickets at less than tariff rate. January 16, 1918, plea of guilty and fine of $150 imposed.

United States *v.* I. K. Dye, District Court, Southern West Virginia, indictment charging grant of discriminations in the matter of car supply while general manager of the Coal & Coke Railway Co. November 13, 1917, demurrer to indictment overruled. June 12, 1918, verdict of guilty. Sentence not imposed pending argument on motion for new trial.

United States *v.* Federal Lead Co., District Court, Eastern Missouri, indictment charging acceptance of concessions from the Illinois Southern Railway Co. in respect to demurrage. February 19, 1918, plea of guilty entered and fine of $15,000 imposed.

United States *v.* John Francis, alias John Hawkshaw, District Court, Eastern Tennessee, indictment charging violation of antipass act. April 30, 1918, verdict of guilty and fine of $100 imposed.

United States *v.* Mark Herring, District Court, Minnesota, indictment charging violation of section 1 of the act. December 4, 1917, plea of guilty entered and fine of $100 imposed.

United States *v.* Patrick J. Hughes, District Court, Western Missouri, indictment charging violation of the antipass act. May 1, 1918, plea of guilty entered and fine of $500 imposed.

United States *v.* H. H. Hutchinson, District Court, Minnesota, indictment charging violation of section 1 of the act. December 11, 1917, plea of guilty entered and fine of $100 imposed.

United States *v.* George A. Johnson and William L. Carmichael, District Court, Southern New York, indictment charging conspiracy to sell tickets at less than tariff rate. January 10, 1918, plea of guilty by Carmichael and fine of $200 imposed. Johnson still at large.

United States *v.* Rudolph Levine, District Court, Southern New York, indictment charging the filing of a false claim with the Delaware, Lackawanna & Western Railroad Co. May 10, 1918, verdict of not guilty.

United States *v.* Mississippi Central Railroad Co., District Court, Southern Mississippi, indictment charging falsification of records. February 20, 1918, plea of guilty entered and fine of $2,000 imposed.

United States *v.* Mobile & Ohio Railroad Co., District Court, Southern Mississippi, indictment charging falsification of records in the matter of car repairs. March 16 1918, plea of guilty entered and fine of $2,500 imposed.

United States *v.* J. M. Nelson, District Court, Minnesota, indictment charging violation of section 1 of the act. December 4, 1917, plea of guilty entered and fine of $100 imposed.

United States *v.* Northern Express Co., District Court, Idaho, indictment charging extending privileges and facilities not published in tariff. June 2, 1918, verdict of not guilty.

United States *v.* Northern Pacific Railway Co., District Court, Idaho, indictment charging grant of concessions to the Dover Lumber Co. June 2, 1918, verdict of not guilty.

United States *v.* E. L. Patrick, District Court, Minnesota, indictment charging securing free transportation in violation of section 1 of the act. December 4, 1917, plea of guilty entered and fine of $100 imposed.

United States *v.* John C. Price, general manager, Tuckerton Railroad Co., District Court, New Jersey, indictment charging grant of concessions to the Tuckerton Radio Station. February 8, 1918, nolle prosequi entered.

United States *v.* Austin I. Robbins and William L. Carmichael, District Court, Southern New York, indictment charging conspiracy to sell tickets at less than tariff rate. January 10, 1918, plea of guilty by Carmichael and fine of $200 imposed. June 7, 1918, plea of guilty by Robbins and fine of $50 imposed.

United States *v.* F. A. Rude, District Court, Minnesota, indictment charging violation of section 1 of the act. December 4, 1917, plea of guilty entered and fine of $100 imposed.

United States *v.* Martin E. Schlesinger, District Court, Minnesota, indictment charging conspiracy to violate section 1 of the act. December 4, 1917, plea of guilty entered and fine of $100 imposed.

United States *v.* Tuckerton Railroad Co., District Court, New Jersey, indictment charging grant of concessions to the Tuckerton Radio Station. February 8, 1918, plea of guilty entered and fine of $2,000 imposed.

United States *v.* Clyde W. Weber, District Court, Minnesota, indictment charging conspiracy to violate section 1 of the act. June 3, 1918, plea of guilty entered. July 3, 1918, fine of $100 imposed.

United States *v.* Western Express Co., District Court, Idaho, indictment charging extending privileges and facilities not published in tariff. June 2, 1918, verdict of guilty and fine of $900 imposed.

APPENDIX B.

SUMMARIES SHOWING ACTION TAKEN SINCE THE PERIOD COVERED BY THE LAST ANNUAL REPORT WITH RESPECT TO CASES INVOLVING ORDERS OR REQUIREMENTS OF THE COMMISSION, AND STATUS ON OCTOBER 31, 1918, OF CASES PENDING IN THE COURTS.

CASES DECIDED BY THE COURTS SINCE OCTOBER 31, 1917.

SUPREME COURT OF THE UNITED STATES.

United States ex rel. Louisville Cement Co. v. *Interstate Commerce Commission*, 24 U. S., 638.

Application for mandamus to compel the Commission to reverse a ruling to the effect that certain claims for damages were barred by the statute of limitations because not filed within two years from the date of delivery of the shipments involved. 18 I. C. C., 430.

Decree of Supreme Court reversing decrees of Circuit Court of Appeals and Supreme Court of the District of Columbia upholding ruling of the Commission.

Louisville & Nashville R. R. Co. v. *United States and Interstate Commerce Commission*, 245 U. S., 463.

Suit in equity to annul an order of the Commission denying in part and granting in part relief from long-and-short haul provisions of fourth section, as to traffic shipped through Bowling Green to Louisville, Ky., and Nashville, Tenn. 24 I. C. C., 228.

Decree of Supreme Court affirming decree of District Court for the Western District of Kentucky denying injunction and dismissing petition.

Manufacturers Ry. Co. and St. Louis Southwestern Ry. Co. v. *United States and Interstate Commerce Commission.*

Manufacturers Ry. Co. and Anheuser-Busch Brewing Asso. et al. v. *United States and Interstate Commerce Commission*, 246 U. S., 457.

Suits in equity, heard together, to annul two orders of the Commission, one requiring the cancellation of certain trunk line tariffs providing for allowances to the Manufacturers Railway Company, and the other requiring the discontinuance of charges on traffic from points served by the Manufacturers Railway Company to points in states other than Missouri higher by more than $2.50 per carload than rates contemporaneously in effect from St. Louis to such points. 21 I. C. C., 304; 28 I. C. C., 93; 32 I. C. C., 100.

Decree of Supreme Court affirming decrees of District Court for the Eastern District of Missouri denying injunctions.

St. Louis Southwestern Ry. Co. et al. v. *United States and Interstate Commerce Commission*, 245 U. S., 136.

Suit in equity to annul an order of the Commission establishing through routes and joint rates on logs and lumber from points in Louisiana and Arkansas to Paducah, Ky. 37 I. C. C., 719.

Decree of Supreme Court affirming decree of District Court for the Western District of Kentucky denying injunction and dismissing petition.

Milton H. Smith v. *Interstate Commerce Commission*, 245 U. S., 33.

Action under section 12 of the act to regulate commerce to compel the president of the Louisville & Nashville Railroad Company to answer certain questions re expenditure of carrier funds for political and other purposes. 31 I. C. C., 261; 33 I. C. C., 168; 49 I. C. C., 320.

Order of Supreme Court affirming an order of the Supreme Court of the District of Columbia granting petition.

Addison R. Smith v. *Interstate Commerce Commission*, 245 U. S., 47.

Action under section 12 to compel the third vice president of the Louisville & Nashville Railroad Company to answer certain questions re expenditure of carrier funds for political and other purposes. 31 I. C. C., 261; 33 I. C. C., 168; 49 I. C. C., 320.

Order of Supreme Court affirming an order of the Supreme Court of the District of Columbia granting petition.

George W. Jones v. *Interstate Commerce Commission*, 245 U. S., 48.

Action under section 12 to compel an attorney of the Louisville & Nashville Railroad Company to answer certain questions re expenditure of carrier funds for political and other purposes. 31 I. C. C., 261; 33 I. C. C., 168; 49 I. C. C., 320.

Order of Supreme Court affirming an order of the Supreme Court of the District of Columbia granting petition.

Illinois Central R. R. Co. et al. v. *State Public Utilities Commission of Illinois et al.*, and *State Public Utilities Commission of Illinois et al.* v. *United States, Interstate Commerce Commission et al.*, 245 U. S., 493.

Appeals from decrees of District Court, Northern District of Illinois, denying injunction against State Public Utilities Commission and Illinois authorities from proceeding against railroads for charging more than the Illinois passenger rate of 2 cents per mile, in accordance with Interstate Commerce Commission's order of October 17, 1917, and dismissing cross bills filed by state commission seeking to annul and set aside said order. 41 I. C. C., 13; 41 I. C. C., 503.

Decree of Supreme Court annulling order of Commission requiring certain carriers to remove discriminations in passenger fares from and to St. Louis, Mo., and Keokuk, Iowa, to and from points in Illinois on the one hand and between points in Illinois on the other hand.

DISTRICT COURTS OF THE UNITED STATES.

C. Elton James et al. v. *Interstate Commerce Commission*, Supreme Court of the District of Columbia.

Petition for mandamus to compel the Commission to take jurisdiction over a complaint filed by petitioners, praying the Commission to prescribe a joint rate over the lines of the Washington & Old Dominion Railway and the Capital Traction Company. 44 I. C. C., 570.

Petition dismissed.

Seaboard Air Line Ry. Co. et al. v. *United States et al.*, Eastern District of Virginia.

Suit in equity to annul an order of the Commission requiring carriers to abstain from absorbing switching charges on certain interstate carload freight at Richmond, Va., while refusing to absorb such charges on other like carload shipments transported under similar circumstances and conditions. 30 I. C. C., 552; 44 I. C. C., 455.

Injunction denied and bill dismissed. Appealed to Supreme Court.

CASES THE PROSECUTION OF WHICH HAS BEEN ABANDONED SINCE OCTOBER 31, 1917.

Interstate Commerce Commission v. *Atchison, Topeka & Santa Fe Ry. Co. et al.*, Eastern District of Missouri.

Suit in equity to annul an order of the Commission vacating order of May 17, 1916, suspending Illinois Traction tariff covering rates between St. Louis and points in Illinois. 41 I. C. C., 13; 41 I. C. C., 503.

Prosecution was abandoned by the parties after decision rendered by the Supreme Court in a case involving same subject matter, namely, the *Illinois Passenger Fares Case.*

C. Elton James et al. v. *Interstate Commerce Commission*, Supreme Court of the District of Columbia.

Petition for mandamus to compel the Commission to take jurisdiction over a complaint filed by petitioners, praying the Commission to prescribe a joint rate over the lines of the Washington & Old Dominion Railway and the Capital Traction Company. 44 I. C. C., 570.

Prosecution was abandoned by petitioner after the Supreme Court of the District of Columbia rendered a decision upholding the order of the Commission.

CASES DISMISSED IN THE COURTS SINCE OCTOBER 31, 1917.

DISTRICT COURTS OF THE UNITED STATES.

New York Central R. R. Co. v. *United States and Interstate Commerce Commission*, District of Indiana.

Suit in equity to annul Commission's order of December 26, 1916, effective July 1, 1917, *In the Matter of Rules and Instructions for the Inspection and Testing of Steam Locomotives and Tenders, etc.*

Dismissed on motion of petitioner.

United States v. *Hanover Ry. Co.*, Northern District of Illinois.

Action at law to recover penalty under section 6 for failure to comply with order of Commission requiring filing of indexes to freight and passenger tariffs.

Dismissed on motion of United States attorney acting for the Department of Justice.

St. Louis Southwestern Ry. Co. et al. v. *United States et al.*, Western District of Kentucky.

Suit in equity to annul Commission's order of April 2, 1917, 43 I. C. C., 537, establishing through routes and joint rates on logs and lumber from points in Louisiana and Arkansas to Paducah, Ky.

Dismissed on motion of petitioners.

United States v. *Delaware, Lackawanna & Western R. R. Co.*, Middle District of Pennsylvania.

Action at law for penalty under section 16 account violation of Commission's order of January 25, 1916 (Special Docket No. 37858), rates on Portland cement in sacks, New Village, N. J., to Cornish, Me.

Dismissed on motion of United States attorney acting for the Department of Justice.

CASES PENDING IN THE COURTS OCTOBER 31, 1918.

SUPREME COURT OF THE UNITED STATES.

Skinner & Eddy Corporation v. *United States and Interstate Commerce Commission.*

Suit in equity to annul certain orders of the Commission defining long-and-short haul rates on steel from eastern defined territory to Pacific coast terminals. 34 I. C. C., 13; 40 I. C. C., 35.

Appeal from decree of District Court, District of Oregon, denying injunction.

Seaboard Air Line Ry. Co. et al. v. *United States et al.*

Suit in equity to annul an order of the Commission requiring carriers to abstain from absorbing switching charges on certain interstate carload freight at Richmond, Va., while refusing to absorb such charges on other like carload shipments transported under similar circumstances and conditions. 30 I. C. C., 552; 44 I. C. C., 455.

Appeal from decree of District Court for the Eastern District of Virginia denying injunction.

DISTRICT COURTS OF THE UNITED STATES.

Louisville & Nashville R. R. Co. v. *United States and Interstate Commerce Commission,* Western District of Virginia.

Suit in equity to annul an order of the Commission prohibiting advances in coal and coke rates from points on the Louisville & Nashville Railroad to points on the Cleveland, Cincinnati, Chicago & St. Louis Railway, and prescribing maximum rates on coal from Black Mountain and other mine groups to points north of Ohio River. 26 I. C. C., 20; 30 I. C. C., 635.

Pending dismissal or reargument after decision by Commission on rehearing.

Illinois Central R. R. Co. et al. v. *United States and Interstate Commerce Commission,* Northern District of Illinois.

Suit in equity to annul an order of the Commission requiring carriers to discontinue charging for the transportation of salt from points in Michigan to points in Illinois and other states rates in excess of 2½ cents per 100 pounds higher than rates contemporaneously in effect from Chicago and Chicago rate points to said destinations. 31 I. C. C., 559.

Interlocutory injunction denied. Pending final hearing.

Missouri, Kansas & Texas Ry. Co. v. *United States, Interstate Commerce Commission et al.,* Northern District of Texas.

Suit in equity to annul an order of the Commission awarding reparation on shipments of cattle from points in Texas and other states to points in Illinois and other states.

St. Louis, Iron Mountain & Southern Ry. Co. v. *United States, Interstate Commerce Commission et al.,* Northern District of Texas.

Suit in equity to annul an order of the Commission awarding reparation on shipments of cattle from points in Texas and other states to points in Illinois and other states.

Chicago & Eastern Illinois R. R. Co. v. *United States, Interstate Commerce Commission et al.,* Northern District of Texas.

Suit in equity to annul an order of the Commission awarding reparation on shipments of cattle from points in Texas and other states to points in Illinois and other states.

St. Louis & San Francisco R. R. Co. v. *United States, Interstate Commerce Commission et al.,* Northern District of Texas.

Suit in equity to annul an order of the Commission awarding reparation on shipments of cattle from points in Texas and other states to points in Illinois and other states.

Interstate Commerce Commission v. *South Georgia Ry. Co.*, Southern District of Georgia.

Suit in equity to enjoin issuance to nonexcepted persons of passes stipulated for in deeds to rights of way. Argued, submitted, and taken under advisement.

Commonwealth of Massachusetts v. *United States and Interstate Commerce Commission*, District of Massachusetts.

Suit in equity to annul an order of the Commission requiring the Boston & Maine Railroad to desist from absorbing connecting charges on interstate traffic to and from Commonwealth Pier while refusing to absorb similar charges to and from the docks of the National Dock & Storage Warehouse Co., at Boston, Mass. 38 I. C. C., 643.

Brown Drug Co., et al. v. *United States, Interstate Commerce Commission et al.*, Northern District of Iowa.

Suit in equity to annul an order of the Commission requiring carriers to desist from charging higher express rates between Sioux City, Iowa., and points in South Dakota than are contemporaneously applied to similar transporation between points in South Dakota. Argued, submitted, and taken under advisement. 39 I. C. C., 703.

Eastern Texas R. R. Co. et al. v. *Railroad Commission of Texas et al.*, Western District of Texas.

Suit in equity to enjoin prosecution by Railroad Commission of Texas and others of suits based upon charging by carriers of rates published in compliance with an order entered by the Interstate Commerce Commission in the *Shreveport Case*. United States and Interstate Commerce Commission made parties to suit by amended answer in the nature of a cross bill filed by Texas Railroad Commission. 41 I. C. C., 83; 43 I. C. C., 45.

Application of Texas Commission for an injunction against order of Interstate Commerce Commission, denied; application of carriers for injunction to restrain Texas Commission from interfering with carriers' compliance with order of Interstate Commerce Commission, granted. Pending final hearing.

Interstate Commerce Commission v. *American Express Co. et al.*, Northern District of Iowa.

Petition for mandatory decree to compel express companies to comply with an order of the Commission requiring carriers to desist from charging higher express rates between Sioux City, Iowa, and points in South Dakota than are contemporaneously applied to similar transportation between points in South Dakota. 39 I. C. C., 703.

Decree enforcing Commission's order entered. Pending hearing on motion to modify decree.

City of St. Louis v. *United States and Interstate Commerce Commission*, Eastern District of Missouri.

Suit in equity to annul Commission's order of November 7, 1916, vacating order of May 17, 1916, suspending Illinois Traction tariff covering rates between St. Louis and points in Illinois. 41 I. C. C., 584.

Pending on motion to dismiss filed by Commission.

Chestnut Ridge Ry. Co. v. *United States and Interstate Commerce Commission*, District of New Jersey.

Suit in equity to annul an order of the Commission vacating orders of December 28, 1915, and January 12, 1916, suspending certain tariffs providing for divisions to Chestnut Ridge Railway Co., an industrial line. New action following dismissal of similar suit between same parties. 41 I. C. C., 62; 50 I. C. C., 152.

National Tube Co. et al. v. *United States et al.*, Northern District of Ohio.

Suit in equity to annul an order of the Commission requiring certain carriers to cease and desist from paying to the Lake Terminal Railroad Company, for what the Commission found to be a plant-facility service, certain divisions of through rates. 50 I. C. C., 489.

Argued, submitted, and taken under advisement.

APPENDIX C.

STATISTICAL SUMMARIES.

SUMMARY OF STATISTICS FROM PERIODICAL REPORTS OF CARRIERS TO THE COMMISSION.

Monthly summary of revenues and expenses of steam roads in the United States, calendar years 1917 and 1918.

Roads having annual operating revenues above $1,000,000, including large switching and terminal companies.]

Month.	Railway operating revenues.		Railway operating expenses.		Railway operating income corresponding to compensation under act of Mar. 21, 1918.	
	1918	1917	1918	1917	1918	1917
January	$285,083,748	$300,843,745	$270,756,750	$215,496,356	[1] *$3,288,205*	$67,239,526
February	289,683,833	265,362,397	260,590,900	207,795,297	12,242,637	41,691,864
March	365,912,476	317,149,867	283,428,186	229,028,449	63,174,856	70,499,080
April	370,614,729	319,328,491	280,655,455	227,626,666	71,397,983	74,441,544
May	378,242,104	345,904,288	285,522,303	238,686,946	73,526,125	92,567,508
June	393,309,379	349,669,869	435,096,305	235,581,846	[2] *63,826,726*	95,119,174
July	468,379,804	348,394,394	316,813,838	237,809,378	137,845,425	92,599,620
August	502,759,622	366,223,601	358,987,665	246,918,741	127,549,531	101,386,055
Total, 8 months[3]	3,051,828,939	2,611,121,387	2,489,862,562	1,837,254,747	417,654,223	633,752,969

[1] Loss.
[2] Loss; the net operating income for June, 1918, would have been approximately $70,000,000 without deduction for wage increases representing back pay since Dec. 31, 1917.
[3] Includes certain corrections not appearing in monthly figures.

Summary of railway operating income (without adjustment on account of equipment and joint facility rents) as published from month to month in the years 1914 to 1917—Roads having annual operating revenues above $1,000,000, including large switching and terminal companies.

Month.	1914	1915	1916	1917[1]	1918
January	$39,943,411	$39,174,218	$64,773,747	$71,929,868	[2] *$400,414*
February	26,816,100	39,028,155	65,890,311	43,555,124	14,416,109
March	54,515,989	55,581,122	83,146,225	73,574,537	67,308,270
April	46,633,285	54,709,207	78,551,005	76,803,598	74,822,678
May	44,446,855	58,976,635	90,931 795	92,079,548	76,978,941
June	58,071,894	70,860,953	90,009,681	97,516,514	[2] *58,959,663*
July	65,947,641	75,555,689	94,683,998	94,291,180	135,699,030
August	76,438,923	85,967,240	109,916,693	101,917,702	128,123,081
September	80,000,473	97,597,783	108,001,011	88,985,043	.....
October	75,778,636	104,520,401	114,431,497	99,926,889	.....
November	55,408,418	103,006,484	102,042,604	72,687,719	.....
December	49,697,104	91,218,841	86,869,066	59,204,074	.....
Twelve months	673,698,729	876,196,728	[3] 1,088,701,660	[3] 967,268,523	.....

[1] War tax deducted in 1917 but not in 1918.
[2] Deficit.
[3] Includes certain corrections not appearing in monthly figures.

ACCIDENTS ON STEAM RAILROADS.

Summary of casualties to persons on steam railways in the United States for the year ended Dec. 31, 1917.

Class of person.	Number of persons—	
	Killed.	Injured
1. Trespassers	4,243	3,829
2. Employees:		
Trainmen	1,492	47,887
Other employees	1,289	4,893
Total employees	2,781	52,780
3. Passengers	301	7,582
4. Persons carried under contract, such as mail clerks, Pullman conductors, etc.	42	792
5. Other nontrespassers	2,200	5,987
Total classes 1 to 5	9,567	70,970
6. Casualties to persons in nontrain accidents (industrial employees, and other persons)	520	123,835

STATISTICS OF RAILWAY DEVELOPMENT SINCE 1908.

In the following tables slight adjustments have been made in some of the figures heretofore published, in order to allow as fully as possible for changes in methods of compilation. As the changes are not of importance, it will not be necessary to burden the tables with numerous footnotes. For the year 1917 the data for large roads only are available at this time and these have been increased on a suitable basis to make them comparable with the figures for previous years, which include data for the small roads also.

TABLE I.—*Mileage operated and mileage owned by steam roads in the United States, not including switching and terminal companies, 1908–1917.*

Year ended—	Miles of road owned in the United States.[1]	Mileage operated, by Classes I, II, and III roads (including trackage rights).		
		Miles of road.	Miles of second or additional main tracks.	Miles of yard track and sidings.
June 30, 1908	233,468	230,494	23,699	79,453
1909	236,834	235,402	24,573	82,377
1910	240,293	240,831	25,354	85,582
1911	243,979	246,238	27,612	88,974
1912	246,777	249,852	29,367	92,019
1913	249,777	253,470	30,827	95,211
1914	252,105	256,547	32,376	98,285
1915	253,789	257,569	33,662	99,910
1916	254,251	259,211	33,864	101,869
Dec. 31, 1916	254,046	259,705	34,325	102,984
1917[2]	.....	.....	.....	.....

[1] Includes mileage of some small companies that do not make annual reports to the Commission.
[2] Compilation not completed.

TABLE II.—*Equipment of steam roads in service at the close of each year, 1908–1917, all operating companies..*

Year ended—	Number of locomotives (steam).	Locomotive tractive capacity (millions of pounds).	Number of freight cars.	Freight-car capacity (tons).	Number of passenger-train cars.
June 30, 1908	56,867	1,498.8	2,096,234	73,086,522	45,292
1909	57,400	1,526.9	2,084,567	73,724,914	45,664
1910	59,248	1,614.8	2,146,888	77,171,786	47,179
1911	61,681	1,743.3	2,208,817	81,675,806	49,906
1912	62,704	1,819.7	2,228,853	83,569,880	51,583
1913	64,913	1,951.6	2,298,203	87,892,185	52,717
1914	66,416	2,044.9	2,349,734	91,870,845	54,492
1915	66,126	2,070.1	2,341,556	92,848,095	55,810
1916	64,961	2,090.1	2,313,300	93,613,353	54,774
Dec. 31, 1916	65,188	2,127.2	2,329,221	95,124,679	55,193
1917[1]	65,724	2,193.4	2,379,765	.....	55,963

[1] Estimated on basis of compilations covering the large roads.

TABLE III.—*Transportation service performed by steam roads, 1908–1917, excluding switching and terminal companies.*

Year ended—	Tons of freight originating.	Number of ton-miles of revenue freight.	Number of loaded freight-car miles.	Number of passengers carried.	Number of passenger miles.
		Millions.	*Millions.*	*Millions.*	*Millions.*
June 30, 1908	869,797,510	218,382	11,128	890	29,083
1909	881,334,355	218,803	11,361	891	29,109
1910	1,026,491,782	255,017	12,851	972	32,338
1911	1,003,053,893	253,784	12,859	997	33,202
1912	1,031,206,606	264,081	13,088	1,004	33,132
1913	1,182,547,672	301,730	14,292	1,044	34,673
1914	1,129,992,223	288,637	13,688	1,063	35,357
1915	1,023,802,680	277,135	13,111	986	32,475
1916	1,262,862,624	343,477	15,343	1,015	34,309
Dec. 31, 1916	1,317,245,556	366,173	16,042	1,049	35,220
1917[1]	1,382,844,388	398,432	16,096	1,111	40,157

[1] Estimated on basis of compilations covering the large roads.

TABLE IV.—*Reported property investment and railway operating income, 1908–1917, excluding switching and terminal companies.*

Year ended—	Investment.	Railway operating income.	Return on investment.[1]
			Per cent.
June 30, 1908	$13,213,766,540	$645,681,895	4.89
1909	13,609,183,515	732,642,083	5.38
1910[2]	14,557,816,099	826,466,756	5.68
1911	15,612,378,845	768,213,345	4.92
1912	16,004,744,966	751,266,806	4.69
1913	16,588,603,109	831,343,282	5.01
1914	17,153,785,568	705,883,489	4.12
1915	17,437,666,690	728,212,079	4.18
1916	17,684,736,585	1,043,839,822	5.90
Dec. 31, 1916	17,837,624,883	1,100,545,422	6.17
1917[3]			

[1] These percentages differ somewhat from those shown on page 37 of this Commission's Thirty-first Annual Report, partly owing to adjustments made in the interest of comparability of the various years and partly owing to the fact that per mile of line figures are not used here

[2] Investment for 1910 as heretofore published has been increased by 170 millions, estimated reserve for accrued depreciation, to make totals comparable with those for other years.

[3] Compilations not complete.

TABLE V.—*Railway capital actually outstanding, 1908–1917, excluding switching and terminal companies.*

Year ended—	Total railway capital.	Funded debt.	Stock.	Ratio of debt to capital.	Net income.	Ratio of net income to stock.
				Per cent.		*Per cent.*
June 30, 1908	$16,198,731,489	$8,897,992,216	$7,300,739,273	54.9	$443,986,915	6.08
1909	16,992,530,340	9,380,119,114	7,612,411,226	55.2	441,062,743	5.79
1910	17,774,426,871	9,763,696,861	8,010,730,010	54.9	583,191,124	7.28
1911	18,437,820,946	10,074,545,054	8,363,275,892	54.6	547,280,771	6.54
1912	18,989,345,476	10,436,898,200	8,552,447,276	55.0	453,125,324	5.30
1913	19,028,535,973	10,428,543,119	8,599,992,854	54.8	544,201,074	6.33
1914	19,401,083,881	10,746,868,639	8,654,215,242	55.4	395,631,642	4.57
1915	19,719,893,944	11,084,574,576	8,635,319,368	56.2	354,786,729	4.11
1916	19,681,193,092	10,938,086,453	8,743,106,639	55.6	671,398,243	7.68
Dec. 31, 1916	19,630,610,082	10,875,206,565	8,755,403,517	55.4	735,341,165	8.40
1917[1]						

[1] Compilations not complete.

TABLE VI.—*Capital stock and dividends, 1908–1917.*

Year ended—	Proportion of stock paying dividends.	Amount of dividends.	Average rate on—	
			Dividend-paying stock.	All stock.
	Per cent.		*Per cent.*	*Per cent.*
June 30, 1908	65.69	$390,695,351	8.07	5.30
1909	64.01	321,071,626	6.53	4.18
1910	66.71	405,771,416	7.50	5.00
1911	67.65	460,195,376	8.03	5.42
1912	64.73	400,315,313	7.17	4.64
1913	66.14	369,077,546	6.37	4.22
1914	64.39	451,653,346	7.97	5.13
1915	60.45	328,477,938	6.29	3.80
1916	60.38	342,109,396	6.48	3.91
Dec. 31, 1916	62.02	366,561,494	6.75	4.19
1917[1]				

[1] Compilations not complete.

TABLE VII.—*Carload, trainload, and density of traffic, 1908–1917.*

Year ended—	Tons per loaded freight car.	Tons per freight train.	Passengers per car.	Passengers per train.	Ton-miles per mile of road.	Passenger-miles per mile of road.
June 30, 1908	19.62	352	16	54	974,654	130,073
1909	19.26	363	15	54	953,986	127,299
1910	19.84	380	16	56	1,071,086	138,169
1911	19.74	383	16	55	1,053,566	139,191
1912	20.18	407	15	53	1,078,580	133,699
1913	21.11	445	15	55	1,245,158	143,067
1914	21.09	452	15	56	1,176,923	144,278
1915	21.15	474	15	53	1,121,059	131,165
1916	22.40	535	15	55	1,380,349	137,818
Dec. 31, 1916	22.83	550	15	55	1,470,274	141,305
1917[1]	24.75	581	17	63		

[1] Estimated on basis of compilations covering the large roads.

TABLE VIII.—*Relation of labor compensation to total operating expenses and to traffic, 1908–1917.*

Year ended—	Total operating expenses.	Operating expenses per ton-mile.[1]	Compensation paid to employees.		
			Total.	Per cent of operating expenses.	Per ton-mile.[1]
		Mills.			*Mills.*
June 30, 1908	$1,710,401,791	5.596	$1,035,437,528	60.54	3.388
1909	1,650,034,204	5.390	988,323,694	59.90	3.228
1910	1,881,879,118	5.346	1,143,725,306	60.78	3.249
1911	1,976,331,864	5.593	1,208,466,470	61.15	3.420
1912	2,035,057,529	5.599	1,252,347,697	61.54	3.445
1913	2,249,277,937	5.544	1,381,334,368	61.41	3.404
1914	2,279,408,486	5.775	1,381,117,292	60.59	3.499
1915	2,088,682,956	5.576	1,242,319,254	59.48	3.317
1916	2,277,202,278	5.101	1,403,968,437	61.65	3.145
Dec. 31, 1916	2,426,250,521	5.142	1,506,960,995	62.11	3.198
1917[2]	2,908,346,474	5.605	1,781,514,212	61.26	3.433

[1] Including passenger-miles reduced to a ton-mile basis. Mail and express traffic not included in ton-miles.

[2] Estimated on basis of compilations covering the large roads.

TABLE IX.—*Railway operating revenues and average receipts per ton, per ton-mile, per passenger, and per passenger-mile, 1908–1917.*

Year ended—	Railway operating revenues.	Average amount received for each ton originated.	Average receipts per ton per mile.	Average receipts per passenger.	Average receipts per passenger per mile.
			Cents.		*Cents.*
June 30, 1908	$2,440,638,832	$1.903	0.754	$0.634	1.937
1909	2,473,205,301	1.903	.763	.631	1.928
1910	2,812,141,575	1.876	.753	.646	1.938
1911	2,852,854,721	1.920	.757	.658	1.974
1912	2,906,415,869	1.909	.744	.657	1.987
1913	3,208,647,370	1.869	.729	.672	2.008
1914	3,126,520,234	1.881	.733	.664	1.982
1915	2,956,193,202	1.991	.732	.659	1.985
1916	3,472,641,941	1.955	.716	.682	2.006
Dec. 31, 1916	3,691,065,217	1.997	.715	.692	2.046
1917 [1]	4,119,258,314	2.103	.730	.766	2.099

[1] Estimated on basis of compilations covering the large roads.

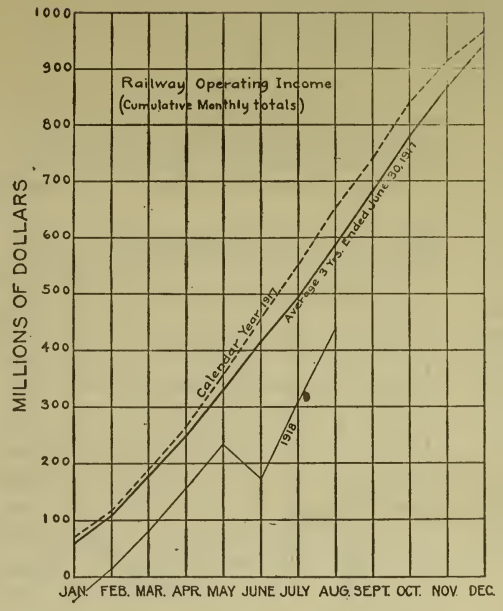

DIAGRAM 1.—*Aggregate railway operating income (unmodified by equipment and joint facility rents) for period beginning with January and ending with specified month. Large steam roads in the United States. Calendar years 1918, 1917, and average for three years ended June 30, 1917.*

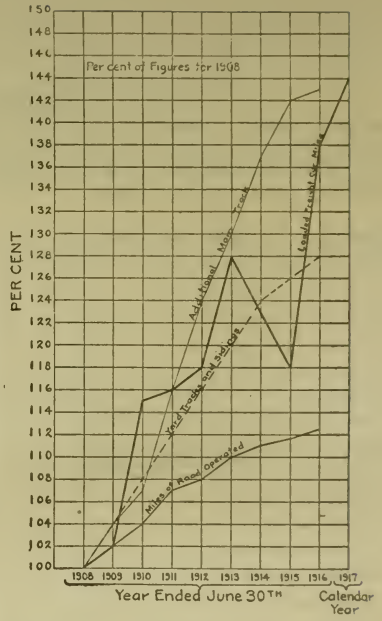

DIAGRAM 2.—*Relative increase in miles of road operated (including trackage rights), miles of second or additional main tracks, miles of yard tracks and sidings, and loaded freight car-miles. Steam roads in the United States 1908–1917. Figures for 1908 taken as 100 per cent.*

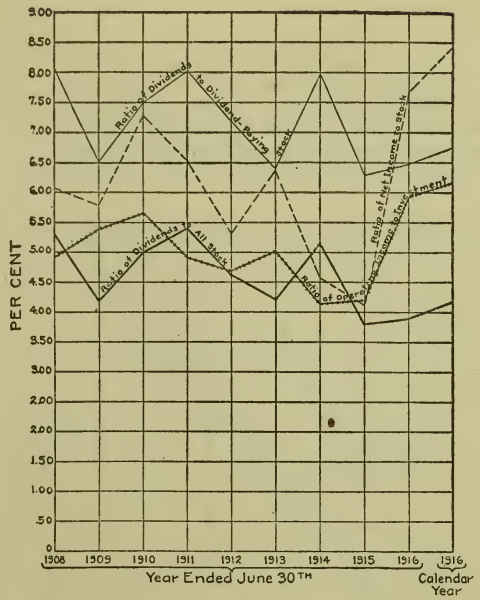

DIAGRAM 3.—*Ratios of operating income to reported investment, net income to stock, and dividends to dividend-paying stock and to all stock. Steam roads in the United States 1908–1916.*

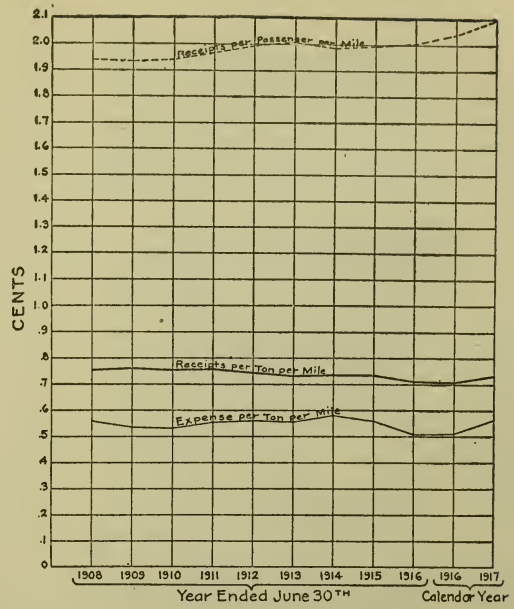

DIAGRAM 4.—*Average receipts per ton-mile and per passenger per mile, and average operating expenses per ton per mile (including passenger traffic on a ton-mile basis). Steam roads in the United States 1908–1917.*

APPENDIX D.

POINTS DECIDED BY THE COMMISSION IN REPORTED CASES, WITH INDEX OF POINTS DECIDED AND TABLE OF CASES.

POINTS DECIDED IN REPORTED CASES.

Globe Grain & Milling Co. v. *L. A. & S, L. R. R. Co.* (46 I. C. C., 645).

1. Collection of a charge of $2.50 per car for switching 130 cars of wheat in Los Angeles Cal., found to have been without tariff authority. Reparation awarded.

Waco, Tex., switching. (46 I. C. C. 647).

2. Proposed elimination of two industries from list of industries on the Missouri, Kansas & Texas Railway of Texas within the switching limits of Waco, Tex., and the establishment at these points of prepay stations whereby increased charges would result on certain interstate shipments found not justified, and suspended schedules ordered to be canceled.

Western Pine Mnfrs. Asso. v. *C., I. & W. R. R. Co.* (46 I. C. C., 650.)

3. The fact that through rates are composed of the aggregates of intermediate rates does not in itself establish their unreasonableness.

4. Rates on lumber and lumber products from the inland empire to central freight association territory not shown to be unreasonable, unjustly discriminatory, or unduly prejudicial.

5. Minimum weights not shown to be unreasonable.

Meeker v. *C. R. R. Co. of N. J.* (46 I. C. C., 657.)

6. Upon complaint that defendant's demurrage rules applicable at Elizabethport, N. J., on coal in carloads for transshipment by vessel are unreasonable; *Held*, That, following *Peale, Peacock & Kerr* v. *C. R. R. of N. J.*, 18 I. C. C., 25; *Plymouth Coal Co.* v. *D., L. & W. R. R. Co.*, 36 I. C. C., 76; and *Red Ash Coal Co.* v. *C. R. R. of N. J.*, 37 I. C. C., 460, the regulations are reasonable. Complaint dismissed.

Lake Charles Rice Milling Co. of La., v. *S. P. Co.* (46 I. C. C., 661.)

7. Rates on rough rice from California points to Lake Charles, La., and on clean rice from Lake Charles to trunk line and Atlantic seaboard points not shown to be unreasonable or unduly preferential or prejudicial.

8. Charges on certain shipments which exceeded those that would have accrued on the basis of the aggregates of the intermediate rates found unreasonable and reparation awarded.

9. Fourth section relief denied.

Hulme & Hart v. *A., T. & S. F. Ry. Co.* (46 I. C. C., 665.)

10. Following *Boardman Co.* v. *S. P. Co.*, 37 I. C. C. 81, reparation denied on account of charges collected by defendants for switching interstate carload traffic to and from industries located upon spurs and sidetracks within the switching limits of San Francisco and Los Angeles, Cal., and other points. Complaints dismissed.

N. Y. Produce Exch. v. *B. & O. R. R. Co.* (46 I. C. C., 666.)

11. Reconsignment charge of $2 per car established as an incentive to the direct billing of carload freight to places of final delivery within New York lighterage limits, and having for its object the relief of the congestion and car shortage situation at New York, found justified.

12. Rule that a shipper from an interior point in the United States must, as a condition precedent to the issuance of a through export bill of lading, guarantee the payment of such storage charges as may accrue at New York after the expiration of free time, found justified.

13. Rule that carload freight moved to New York as domestic traffic and subsequently exported can not be accorded the benefit of the more liberal storage charges and regulations applicable to export traffic, which rule was designed to prevent the circumvention of embargoes against the movement of freight to New York before ship space is secured, found justified.

Vegetable oils transportation. (46 I. C. C., 674.)

14. Proposed rule requiring shipments of China wood oil and soya bean oil in wooden packages, in carloads to be in iced refrigerator cars, during the period from April 1 to October 31 each year; and requiring the shipper to deliver to the carrier a sworn

weigher's certificate with each shipment, found not justified, and suspended tariffs required to be canceled.

Tidewater demurrage. (46 I. C. C., 677.)

15. Proposed reductions in free time for detention of carload shipments of coal at tidewater terminals, New York harbor, Philadelphia, Pa., Wilmington, Del., and Baltimore, Md., found to have been justified.

Minneapolis Traffic Asso. v. *C., M. & St. P. Ry. Co.* (46 I. C. C., 685.)

16. Transit rules at Minneapolis, Minn,. applicable to shipments of grain and the rates resulting therefrom not shown to be unjust, unreasonable, unjustly discriminatory, or unduly prejudicial. Complaint dismissed.

Weis-Peterson Box Co. v. *M. & O. R. R. Co.* (46 I. C. C., 693.)

17. Carload rates on egg-case material in shook form from Cairo, Ill., to points in Kentucky and Tennessee found to be unduly prejudicial to Cairo to the extent indicated herein.

State of Iowa v. *Wab. Ry. Co.* (46 I. C. C., 703.)

18. Upon complaint that commodity rates between Peoria or Springfield, Ill., and Des Moines and other designated interior Iowa cities as published in western trunk line tariff I. C. C. No. A-588 are not in compliance with the fourth section order of the Commission in *Des Moines Commodity Rates*, 34 I. C. C., 281; and that they are unreasonable and unduly prejudicial; *Held*, That while the fourth section order in the case referred to has in terms been complied with, the finding of the Commission in that case has not been followed; that the maintenance of higher rates between Peoria or Springfield and the designated interior Iowa cities than between Peoria or Springfield and St. Paul is unduly prejudicial; and that the rates in other respects are not found unreasonable. Fourth section relief denied.

N. O. Cotton Exc. v. *L. & N. R. R. Co.* (46 I. C. C., 712.)

19. The maintenance of provisions for concentration of cotton at Atlanta, Ga., from points on the Atlanta division of the Louisville & Nashville Railroad for reshipment to south Atlantic ports and denying concentration at that point when for reshipment to New Orleans found unduly prejudicial to New Orleans. The maintenance of provisions for concentration at Montgomery and Selma, Ala., when for reshipment to Mobile and Pensacola, and the denial of such concentration at these points when for reshipment to New Orleans found unduly prejudicial to New Orleans. The maintenance of provisions for concentration at Pensacola when for reshipment to eastern cities and the denial of such concentration at Pensacola when for reshipment to New Orleans found not unduly prejudicial to New Orleans.

20. The maintenance of rates on uncompressed cotton in connection with the phrase "with privilege to carrier of compressing" not shown to have produced undue prejudice against shippers or the port of New Orleans.

21. Rates on cotton from points on the Southern Railway within a radius of 300 miles from New Orleans found unreasonable in those instances in which they exceed 50 cents per 100 pounds.

22. Proposed relation of rates from cotton-producing territory in Tennessee, Mississippi, Alabama, and Georgia to New Orleans and Mobile found not unduly prejudicial to New Orleans.

23. Proposed relation of rates from cotton-producing territory in Tennessee, Mississippi, Alabama, and Georgia to south Atlantic ports on the one hand and to New Orleans on the other not shown to be unduly prejudicial to New Orleans.

24. Relief from the fourth section afforded as to rates on cotton from points on the Mississippi River and its tributaries and Mobile, Ala., to Ohio River crossings, south Atlantic ports, Gulf ports, and eastern cities.

25. Relief from the fourth section afforded as to rates on cotton from interior junction points to Gulf ports, Ohio and Mississippi River crossings, south Atlantic ports, and eastern cities via routes which are circuitous to the extent of 15 per cent or more.

26. Relief from the fourth section afforded as to rates on cotton between Gulf ports and south Atlantic ports and from south Atlantic ports to eastern and Virginia cities.

27. Relief from the fourth section denied as to rates on cotton from interior junction, points to Ohio and Mississippi River crossings, Gulf ports, south Atlantic ports eastern and Virginia cities, via all routes that do not exceed the direct lines from and to the same points by more than 15 per cent except in certain instances described in the report.

Acme Cement Plaster Co. v. *A., C. & Y. Ry. Co.* (47 I. C. C., 1.)

28. Defendants' carload rates on gypsum hollow building tile from Grand Rapids, Mich., to points on and east of the Mississippi River and on and north of the Ohio River as far east as the eastern boundary of central freight association territory, found to subject complainants and their traffic to undue prejudice and disadvantage and to give to the contemporaneous shippers of clay hollow building tile and their traffic, between the same points, an undue preference and advantage. These cases will be held open on the question of damage and the claim to an award of reparation.

Peshtigo Lumber Co. v. *W. N. W. Ry.* (47 I. C. C., 6.)

29. Claims for reparation on account of the alleged misrouting of various shipments of saw logs from Taylors Rapids, Wis., to Peshtigo, Wis., over an interstate route, denied. Complaint dismissed.

Campbell & Cleaver v. *St. L. & S. F. R. R. Co.* (47 I. C. C., 8.)

30. Concentration and compression service at Lawton, Okla., canceled and subsequently restored, found to have resulted in unreasonable charges for the transportation of cotton from Davidson and Snyder, Okla., to Texas City, Tex., and New Orleans, La., for export. Reparation awarded.

Blatchford Calf Meal Factory v. *E., J. & E. Ry. Co.* (47 I. C. C., 10.)

31. Rates on live-stock feed in carloads and on live-stock feed and poultry feed in mixed carloads from Waukegan, Ill., to various destinations in western trunk line territory found to have been unreasonable. Reparation awarded.

Curtis & Yale Co. v. *C. & N. W. Ry. Co.* (47 I. C. C., 12.)

32. Carload of sash and doors from Wausau, Wis., to Girardville, Pa., found not to have been misrouted. Complaint dismissed.

Syracuse Chamber of Commerce v. *M. C. R. R. Co.* (47 I. C. C., 14.)

33. Rate on wet wood pulp in carloads from Detroit, Mich., to Syracuse, N. Y., found to have been unreasonable. Reparation awarded.

Weisse & Co. v. *C. & N. W. Ry. Co.* (47 I. C. C., 16.)

34. Rate on harness leather in less than carloads from Sheboygan Falls, Wis., to St. Louis, Mo., found to have been unreasonable. Reparation awarded.

35. Fourth section relief denied.

Acme Steel Goods Co. v. *A., T. & S. F. Ry. Co.* (47 I. C. C., 18.)

36. Present rating applied by defendants in the western classification territory on wood joint fasteners in less than carloads found to be unreasonable.

Gray Lumber Co. v. *M. & O. R. R. Co.* (47 I. C. C., 20.)

37. Switching charges in addition to the line-haul charges on lumber from Suqualena, Miss., to various interstate destinations, milled in transit at Meridian, Miss., found to have been unlawfully collected. Reparation awarded.

Prest-O-Lite Co. v. *C., H. & D. Ry. Co.* (47 I. C. C., 22.)

38. Charges on acetylene gas cylinders in carloads from Speedway, Ind., to Atlanta, Ga., found unreasonable to the extent that the charges for the haul from Cincinnati, Ohio, to Atlanta exceeded those that would have accrued at the sixth-class rate of 41 cents per 100 pounds. Reparation awarded.

Farmers Elevator & Mercantile Co. v. *M. P. Ry. Co.* (47 I. C. C., 25.)

39. Rate on nut coal in carloads from Krebs, Okla., to Brown Spur, Kans., found unreasonable. Reparation awarded.

40. Fourth section relief denied.

Barrett Manufacturing Co. v. *A., T. & S. F. Ry. Co.* (47 I. C. C., 27.)

41. Carload rates of 38 cents per 100 pounds on coal tar, in barrels, or in tank cars, between Utah common points and Colorado common points, and on coal-tar pitch, in barrels, from Utah common points to Colorado common points, found to be unreasonable. Rates of 30 cents per 100 pounds prescribed as reasonable maximum rates for the future.

Dewey v. *C., M. & St. P. Ry. Co.* (47 I. C. C., 32.)

42. Carload rates on timothy seed and flaxseed from Mott, N. Dak., to Minneapolis, Minn., not shown to have been unreasonable. Shipment found to have been overcharged and reparation awarded.

Newman Lumber Co. v. *N. O. & N. E. R. R. Co.* (47 I. C. C., 33.)

43. Demurrage charges at New Orleans, La., on 11 carloads of lumber shipped from Hattiesburg and Sumrall, Miss., to New Orleans for export found to have been unlawfully assessed. Reparation awarded.

Matthews & Bro. v. *C. & E. I. R. R. Co.* (47 I. C. C., 36.)

44. Double first-class rating in the official and western classifications on incandescent lamp guards, not nested, not shown to be unreasonable. Complaint dismissed.

Nebraska Bridge Supply & Lumber Co. v. *N., C. & St. L. Ry.* (47 I. C. C., 39.)

45. On rehearing, rates on low-grade cedar logs in carloads from certain points in Alabama, Tennessee, and Georgia, to Atlanta, Ga., found to have been unreasonable, and reparation awarded.

Milwaukee Switching Absorption. (47 I. C. C., 41.)

46. Absorption by the Pere Marquette Railroad of intermediate switching charges at Milwaukee, Wis., on bituminous coal in carloads moving to Milwaukee over its line and destined to points beyond over the Chicago & North Western Railway, found to have been without tariff authority. Orders of suspension vacated.

Kath Co. v. *A., T. & N. Ry.* (47 I. C. C., 42.)

47. Charges on three carloads of mussel shells from Cochrane, Ala., to Muscatine, Iowa, found to have been unreasonable. Reparation awarded.

48. Fourth section relief denied.

Crown Willamette Paper Co. v. *S. P. Co.* (47 I. C. C., 44.)

On complaints attacking the rate applied from Jacksonville, Fla., to Sanford, Fla., on unprinted fruit wrapping paper in carloads from Camas, Wash., and Floriston, Cal., and various rates applied from Floriston to Jacksonville on the same traffic, destined to Sanford, *Held:*

49. Component from Jacksonville to Sanford not shown to have been or to be unreasonable or unduly prejudicial.

50. Components from Floriston to Jacksonville found to have been unreasonable to the extent that they exceeded 88.5 cents per 100 pounds.

51. Reparation awarded.

52. Fourth section relief denied.

Swift & Co. v. *U. P. R. R. Co.* (47 I. C. C., 49.)

53. Rate on packing-house products from South Omaha, Nebr., South St. Joseph, Mo., and Kansas City, Kans., to California terminal points not shown to have been unreasonable. Complaint dismissed.

Kruger Lumber Co. v. *St. L. & S. F. R. R. Co.* (47 I. C. C., 52.)

54. Carload of nut coal from Scammon, Kans., to Abilene, Kans., moving interstate, not shown to have been misrouted. Complaint dismissed.

Coulbourn v. *N. Y., P. & N. R. R. Co.* (47 I. C. C., 54.)

55. Rate on lumber in carloads from stations on the New York, Philadelphia & Norfolk Railroad in Accomac and Northampton counties, Va., to Wilmington, Del., and Philadelphia, Pa., found to be unreasonable, and a reasonable maximum rate prescribed for the future.

56. Fourth section relief denied.

Pacific Coast Shippers Asso. v. *N. P. Ry. Co.* (47 I. C. C., 57.)

57. Carload of fir lumber from Eagle Gorge, Wash., to Gordon, Nebr., found to have been misrouted. Reparation awarded.

Van Dusen Harrington Co. v. *C., M. & St. P. Ry. Co.* (47 I. C. C., 59.)

58. Charges on corn in carloads from points in Iowa to Minneapolis, Minn., reconsigned thence to points in California, based on combination of rates to and from Minneapolis, found to have been illegal. Reparation awarded.

Wallace-Smith & Co. v. *B. & M. R. R.* (47 I. C. C., 62.)

59. Rating on horse blankets in official classification territory not shown to be unreasonable or unduly prejudicial. Complaint dismissed.

Ramsey & Co. v. *A., T. & S. F. Ry. Co.* (47 I. C. C., 64.)

60. Rates on beer in carloads from St. Louis, Mo., and Milwaukee, Wis., to El Paso, Tex., justified. Complaint dismissed.

New Era Milling Co. v. *A., T. & S. F. Ry. Co.* (47 I. C. C., 67.)

61. Switching charges at Arkansas City, Kans., on a carload of wheat from Sterling, Kans., milled at Arkansas City and reshipped to Hartford City, Ind., found not to have been unlawful. Complaint dismissed.

Alexander Brothers Lumber Co. v. *P. M. R. R. Co.* (47 I. C. C., 69.)

62. Demurrage charges at Detroit, Mich., on a carload of lumber from Cass Lake, Minn., found to have been illegally assessed.

Mitchell, Lewis & Staver Co. v. *C. & N. W. Ry. Co.* (47 I. C. C., 71.)

63. Rate on transplanters, other than tree transplanters, knocked down, without barrels, in less than carloads, from Racine, Wis., to Portland, Oreg., found to have been and to be unreasonable to the extent that it exceeded or may exceed the contemporaneous second-class rate. Reparation awarded.

Kindred v. *C., N. O. & T. P. Ry. Co.* (47 I. C. C., 73.)

64. Defendant's refusal to place cars for loading on its spur track about 2½ miles south of Rockwood, Tenn., not shown to have been unjustly discriminatory or otherwise in violation of the act. Complaint dismissed.

Flanley Grain Co. v. *G. N. Ry. Co.* (47 I. C. C., 74.)

65. Rates on bulk corn in carloads from Green Valley and Cottonwood, Minn., to Kansas City, Mo., not shown to have been unreasonable or otherwise unlawful. Complaint dismissed.

Temco Electric Motor Co. v. *B. & O. R. R. Co.* (47 I. C. C., 76.)

66. Third-class rating in official classification territory on double coil springs in less than carloads not shown to have been or to be unreasonable or unjustly discriminatory. Complaint dismissed.

Lewis Co. v. *L. & B. R. R. R. Co.* (47 I. C. C., 79.)

67. Class and commodity rates between Beaver Falls, N. Y., on the Lowville & Beaver River Railroad, and points on the New York Central Railroad outside of the state of New York, higher than the corresponding rates to or from Lowville, N. Y., the point of junction of the two lines, found not unreasonable or unduly prejudicial. Complaint dismissed.

Continental Can Co. v. *A. C. R. R. Co.* (47 I. C. C., 82.)

68. Rates on empty tin cans in carloads from Baltimore, Md., to Philadelphia, Pa., Camden, N. J., Hickman and Seaford, Del., Hancock, W. Va., Melfa, Va., and to Bethlehem, Md., moving interstate, found to have been unreasonable. Reparation awarded.

Creamery Package Mfg. Co. v. *K. C. S. Ry. Co.* (47 I. C. C., 84.)

69. Reparation on egg-case fillers in carloads from Coffeyville, Kans., to Gentry, Ark., denied. Complaint dismissed.

Southern Can Co. v. *S. Ry. Co.* (47 I. C. C., 85.)

70. Rate on empty tin cans in carloads from Baltimore, Md., to North Wilkesboro, Elkin, Ronda, and Roaring River, N. C., found to have been unreasonable. Reparation awarded.

Southern Lumber & Mfg. Co. v. *T. Ry. Co.* (47 I. C. C., 87.)

71. Rate on lumber in carloads from Nick's Creek, Tenn., to Cincinnati, Ohio, not shown to be unreasonable but found to be unduly prejudicial as compared with the rate from Norma, Tenn., to Cincinnati.

Official classification No. 44. (47 I. C. C., 91.)

72. Proposed change in ratings and increased minimum weight on natural stone justified.

73 Proposed change in ratings on tailors' woolen clippings and increased ratings on roller bearings not justified.

74. Present rating on certain roller bearings found unreasonable.

75. Reparation denied.

Grain Transit at Michigan Stations. (47 I. C. C., 104.)

76. Proposed cancellation of waiver of back-haul or out of route charges on grain milled in transit at certain stations in Michigan north of the main line of the New York Central Railroad and consigned to Bryan and Toledo, Ohio, and points south and east thereof, found justified. Orders of suspension vacated.

Western trunk lines iron and steel. (47 I. C. C., 109.)

77. Proposal of respondents to increase or cancel practically all commodity rates on iron and steel articles applying within western trunk line territory and from points east of Chicago and the Mississippi River to points in western trunk line territory found generally not justified, but authority given to publish higher rates than are at present maintained. Suspended schedules required to be canceled.

Galion Iron Works & Mfg. Co., v. *B. & O. R. R. Co.* (47 I. C. C., 136.)

78. Rate of $1.95 per ton on coke from the Connellsville, Pa., and Fairmont, W. Va., regions to Bucyrus, Crestline, Galion, and Marion, all in the state of Ohio, not found to be unreasonable or unduly preferential or prejudicial.

79. Mere distance comparisons of the nearer points in the complaining group with specific points in lower rated groups, without reference to the group adjustment as a whole, held not to warrant the making of another group to include the complaining points.

80. Carriers' attention called to a fourth section departure occurring in connection with a route which is not used by the carriers but which is available under their joint tariff. Complaint dismissed.

New York Harbor Storage. (47 I. C. C., 141.)

81. Proposed reduction from five days to two days in the free time allowed for holding of respondents' terminals at the port of New York domestic freight consigned to "New York lighterage," justified. Proposed increased storage charges, applicable on both export and domestic shipments, shown to be reasonable.

Cement to Nebraska (No. 2). (47 I. C. C., 160.)

82. The respondents having offered no justification for the proposed increased rates on cement, the suspended schedule is ordered canceled, and the application for approval for filing is denied.

Export freight free time. (47 I. C. C., 162.)

83. Respondents having failed to justify the proposed reduction from 15 to 5 days in the free time allowed on export traffic at the north Atlantic ports; and from 10 to 5 days at the Gulf ports, schedules under suspension required to be canceled; without prejudice to the filing of new schedules providing for not less than 10 days' free time at the north Atlantic ports, and not less than 7 days at the Gulf ports, which periods are found to be reasonable under existing conditions.

84. Proposed reduction from 10 to 5 days in the free time applicable to bunker coal at the ports of New Orleans, Mobile, and Pensacola, found to have been justified.

Emery & Co., v. *B. & M. R. R.* (47 I. C. C., 200.)

85. Defendant's practice of "expensing forward" customs duties and brokerage fees on shipments imported from Canada through Newport, Vt., when its agent at Newport acts as the customs broker, and refusing to "expense forward" customs duties and brokerage fees on shipments handled by other customs brokers found unduly preferential to shippers who employ the railroad agent as their customs broker. Reparation denied.

Cape Girardeau Portland Cement Co., v. *St. L. & S. F. R. R. Co.* (47 I. C. C., 204.)

86. Upon petition divisions prescribed for joint through rates on cement in carloads from Cape Girardeau, Mo., to points in southern Illinois, found reasonable in 35 I. C. C., 109.

Minnesota & Ontario Power Co. v. *B. F. & I. F. Ry. Co.* (47 I. C. C., 208.)

87. Two carload shipments of news print paper from International Falls, Minn., to Little Rock, Ark., found to have been overcharged. Refund directed.

88. The Commission is not empowered to award counsel fees or to direct the return by carriers of claim papers filed by shippers.

Perdue v. *B. & O. S. W. R. Co.* (47 I. C. C., 210.)

89. Complaint alleging that the rate on a less-than-carload shipment of household goods from Fairmont, W. Va., to Portland, Oreg., was unreasonable, dismissed.

Standard Roofing Co. v. *M., K. & T. Ry. Co.* (47 I. C. C., 212.)

90. Rates on prepared roofing and building paper in carloads from Chicago and Chicago Heights, Ill., to Tulsa and Muskogee, Okla., found to have been unreasonable. Reparation awarded.

Price Iron & Steel Co., v. *G. T. W. Ry. Co.* (47 I. C. C., 215.)

91. Rate on scrap iron in carloads from Elsdon, Ill., to East Chicago, Ind., not shown to have been unreasonable. Complaint dismissed.

Kansas Buff Brick & Mfg. Co., v. *M. K., & T. Ry. Co.* (47 I. C. C., 217.)

92. Rate legally applicable on brick in carloads from Chanute, Kans., to Jefferson City, Mo., not shown to have been unreasonable. Complaint dismissed.

Eagle Pass Lumber Co., v. *G., H. & S. A. Ry. Co.* (47 I. C. C., 219.)

93. Rate on iron pipe, pipe fittings, and boiler tubes in carloads from New York, N. Y., to Eagle Pass, Tex., found to have been legally applicable and not shown to have been unreasonable. Complaint dismissed.

94. Carrier's failure to complete a transportation service contracted for is not a basis for an award of reparation under the act to regulate commerce.

Du Pont De Nemours Powder Co., v. *H. & B. V. R. R. Co.* (47 I. C. C., 221.)

95. Rate on sulphur in carloads, from Bryan Mound, Tex., to Connable, Ala., not shown to have been unreasonable. Complaint dismissed.

Rapier Sugar Feed Co., v. *L. & N. R. R. Co.* (47 I. C. C., 222.)

96. Reparation denied on certain tank-car loads of imported blackstrap molasses shipped from New Orleans, La., to Owensboro, Ky. Complaint dismissed.

Du Pont De Nemours Powder Co., v. *P. R. R. Co.* (47 I. C. C., 224.)

97. Complaint against rate on cotton factory sweepings in bales, in carloads, from Philadelphia, Pa., to Hopewell, Va., dismissed for lack of proof.

Thomas McFarland Lumber Co., v. *St. L. S. W. Ry. Co.* (47 I. C. C., 225.)

98. Charges on carloads of lumber from Carryville, Ark., to Cairo, Ill., found to have been legally assessed. Complaint dismissed.

Practical Drawing Co., v. *C., H. & D. Ry. Co.* (47 I. C. C., 227.)

99. Rate charged on a less-than-carload shipment of blank white paper cut to size and ready for immediate use, in boxes, from Hamilton, Ohio, to Atlanta, Ga., found to have been legally applicable and not shown to have been or to be unreasonable. Complaint dismissed.

Trexler Lumber Co., v. *N. Y., N. H. & H. R. R. Co.* (47 I. C. C., 229.)

100. Allegation that charges on two carloads of lumber from Prentiss, Miss., to Waterbury, Conn., were excessed on excessive weights found not sustained. Complaint dismissed.

Procter & Gamble Co., v. *C., C., C. & St. L. Ry. Co.* (47 I. C. C., 231.)

101. Rate on coconut oil in tank cars from San Francisco, Cal., to Ivorydale, Ohio, found to have been unreasonable. Reparation awarded.

Gund Brewing Co. v. *C., M. & St. P. Ry. Co.* (47 I. C. C., 233.)

102. Rate on beer, in carloads, from La Crosse, Wis., to Lemmon, S. Dak., found to have been unreasonable. Reparation awarded.

American Bridge Co. v. *N. & W. Ry. Co.* (47 I. C. C., 235.)

103. Reparation awarded against initial carrier for damages due to the misrouting of six carloads of bridge builders' outfit shipped from Kenova, W. Va., to Greenville, N. J.

Advance Lumber Co. v. *S. Ry. Co.* (47 I. C. C., 237.)

104. Rate on lumber, in carloads, from Maylene, Ala., to Chattanooga, Tenn., found to have been unreasonable. Reparation awarded.

105. Fourth section relief denied.

Muskogee Produce Co. v. *St. L. & S. F. R. R. Co.* (47 I. C. C., 239.)

106. Rates on apples in carloads from certain points in Arkansas to Muskogee, Okla., found to have been and to be unduly prejudicial to the extent that they exceeded or exceed by more than 5 cents per 100 pounds the rates contemporaneously applicable from the same point of origin to Fort Smith, Ark.

American Sumatra Tobacco Co. v. *N. Y., N. H. & H. R. R. Co.* (47 I. C. C., 243.)

107. Rates on secondhand cheesecloth in carloads and less than carloads, from Windsor Locks, Conn., to Quincy, Fla., found to have been and to be reasonable. Shipments found to have been undercharged and overcharged. Reparation awarded.

Lafayette Chamber of Commerce v. *A. & V. Ry. Co.* (47 I. C. C., 246.)

108. Rates on salt in carloads from Rittman, Ohio, and grouped points, to Lafayette, La., found unreasonable. Reparation awarded.

Cutler-Magner Co. v. *M., St. P. & S. S. M. Ry. Co.* (47 I. C. C., 249.)

109. Following *Kaye & Carter Lumber Co.* v. *M. & I. Ry. Co.*, 17 I. C. C., 209; *Held*, That charges collected on a carload of bulk salt from Duluth, Minn., to Calgary, Canada, based on the marked capacity of the car furnished, were unreasonable to the extent that they exceeded charges that would have accrued on the basis of the marked capacity of the car ordered. Reparation awarded.

Memphis Merchants Exch. v. *F. E. C. Ry. Co.* (47 I. C. C., 251.)

110. Rates on imported blackstrap molasses in tank-car loads from Key West, Fla., to Memphis, Tenn., found to be unduly prejudicial.

Schall Co. v. *B. & O. S. W. R. R. Co.* (47 I. C. C., 254.)

111. Rate on stone, rough, sawed four sides or less, in carloads, from points in the Bedford, Ind., district to Omaha, Nebr., not shown to be unreasonable, but found to be unduly prejudicial to the extent that it is not 2 cents per 100 pounds less than the rate contemporaneously applicable on dressed, planed, or sawed stone in carloads from and to the said points.

Harrison v. *M. C. R. R. Co.* (47 I. C. C., 259.)

112. Following the principle applied in *Central Commercial Co.* v. *L. & N. R. R. Co.*, 27 I. C. C., 114; 33 I. C. C., 164; and *Doran & Co.* v. *N., C. & St. L. Ry.*, 33 I. C. C., 523: *Held*, That defendants should have provided for the diversion of a carload shipment of lumber from Epley, Miss., to Hanover, Pa., at Potomac Yard, Va., on basis of the through rate from Epley to Hanover plus a maximum charge of $5 for the extra service incident to the diversion. Reparation awarded.

White v. *U. P. R. R. Co.* (47 I. C. C., 261.)

113. The absence from defendant's tariffs of a "two to one" rule in connection with shipments of cattle from Clay Center, Kans., to Kansas City, Mo., found to have been and to be unreasonable. Reparation awarded.

Royal Milling Co. v. *G. N. Ry. Co.* (47 I. C. C., 263.)

114. Maintenance of a charge of 2 cents per 100 pounds for milling in transit of wheat at Great Falls subjects complainant to a disadvantage as compared with terminal mills for which defendant alone can not be held responsible.

115. Total charges exacted by Great Northern Railway on wheat which is shipped from points in Montana on its line between Butte and Great Falls and between Great Northern Junction and Great Falls, to Great Falls, there milled into flour and the flour shipped to destinations in North Dakota on the line of the Great Northern Railway found to be unduly prejudicial to the complainant in violation of sections 3 and 4 of the act; to remedy which the defendant should publish and maintain through rates from the points of origin involved to destinations in North Dakota observing as maxima thereon the basis outlined in the report.

Harmon & Co. v. *N. Y. C. R. R. Co.* (47 I. C. C., 277.)

116. Rate on metal extension curtain rods, in less than carloads, from Ogdensburg, N. Y., to Tacoma, Wash., found to have been unreasonable. Reparation awarded.

Sioux City Live Stock Exch. v. *C., St. P., M. & O. Ry. Co.* (47 I. C. C., 279.)

117. Rules governing the free transportation of caretakers accompanying carload shipments of live stock from points in southwestern Minnesota to Sioux City, Iowa, found unduly prejudicial in comparison with the rules governing from the same points of origin to St. Paul on traffic to South St. Paul, Minn. Undue prejudice ordered removed.

Stonega Coke & Coal Co. v. *L. & N. R. R. Co.* (47 I. C. C., 282.)

118. Through routes and joint rates on coke in carloads required to be established and maintained from Stonega, Osaka, Glamorgan, Esserville, and Dorchester, Va., to destinations in Alabama, Florida, Georgia, Kentucky, Louisiana, South Carolina, and Tennessee, not to exceed joint rates contemporaneously in effect from Appalachia, Blackwood, Josephine, and Norton, Va.

Canned goods from San Francisco. (47 I. C. C., 285.)

119. Proposed increased proportional rates on canned goods originating at interior points in California, applicable to transportation by water from San Francisco, Cal., to

Portland and Astoria, Oreg., found justified. Proposed increased minimum applicable to the same transportation found justified in part.

Dimmitt-Candle-Smith, etc., Co. v. *C., B. & Q. R. R. Co.* (47 I. C. C., 287.)

120. Rates on live stock in carloads from points in the state of Missouri to East St. Louis and National Stock Yards, Ill., found to be unjust and unreasonable in so far as they exceed the scale of maximum rates prescribed herein.

121. The present relation of the interstate rates to East St. Louis and National Stock Yards, on the one hand, and the intrastate rates to St. Louis, on the other, found to subject East St. Louis and National Stock Yards to undue prejudice and disadvantage in favor of St. Louis.

122. The application of a different rule governing the return transportation of caretakers in connection with the intrastate rates to St. Louis than in connection with the interstate rates to East St. Louis and National Stock Yards found to subject East St. Louis and National Stock Yards to undue prejudice and disadvantage.

123. Defendants ordered to establish just and reasonable rates prescribed as maxima to East St. Louis and National Stock Yards, and to cease and desist from subjecting said points to the undue prejudice and disadvantage in favor of St. Louis.

Handling of heavy articles. (47 I. C. C., 323.)

124. Proposed increased charges for delivering heavy articles by lighter at New York, N. Y., justified.

Live stock classification. (47 I. C. C., 335.)

125. Proposed increased ratings on live stock in less than carloads in official and southern classification territories found not justified, and suspended schedules required to be canceled, but respondents authorized to establish new minimum weights and ratings on the traffic in question.

126. In view of the amended Cummins amendment, carriers in official classification territory required to cancel certain proposed schedules which provide rates on ordinary live stock dependent upon value.

127. Finding in *National Society of Record Assos.* v. *A. & R. R. R. Co.*, 40 I. C. C., 347, respecting minimum weights in official and southern classification territories, modified and the order therein vacated and set aside in so far as it pertains to minimum weights on less-than-carload live stock and to standard or basic values on ordinary live stock.

Traffic Bureau, Sioux City Commercial Club, v. *A. & W. Ry. Co.* (47 I. C. C., 347.)

128. Rates on lumber and other forest products, other than yellow pine, from points in Missouri, Oklahoma, Arkansas, Texas, Louisiana, Tennessee, Mississippi, and Alabama to Sioux City, Iowa, found to be unduly prejudicial to the extent that they exceed by more than 2 cents per 100 pounds the rates contemporaneously maintained from the same points of origin to Omaha, Nebr.

National Petroleum Asso. v. *M., K. & T. Ry. Co.* (47 I. C. C., 355.)

129. Rates on petroleum oil and its products, in carloads, from southeastern Kansas to points in Oklahoma found to be unreasonable. Reasonable maximum rates prescribed for the future. Reparation and fourth section relief denied.

Charleston & Norfolk S. S. Co. (47 I. C. C., 365.)

130. Following *Charleston & Norfolk S. S. Co.* v. *C. & O. Ry. Co.*, 40 I. C. C., 382, *Held*, That the Charleston & Norfolk Steamship Company is not a common carrier within the meaning of the Panama Canal act and therefore the Commission is without jurisdiction to prescribe proportional rail rates from Ohio River crossings to the port of Norfolk, Va., for use in connection with rates of the steamship company by the boat line which it proposes to operate from Baltimore, Md., and Norfolk to Charleston, S. C.

Cal. Pine Box & Lumber Co. v. *S. P. Co.* (47 I. C. C., 372.)

131. Charges collected on shipments of box shook and box material in carloads, which moved from southern Oregon mills to points in California between certain dates in 1914 and 1915, found to have been unduly prejudicial and to have damaged complainants to the extent that they exceeded charges based on rates subsequently established. Reparation awarded.

National Live Stock Exch. v. *C., B. & Q. R. R. Co.* (47 I. C. C., 380.)

132. Upon complaint that transit rules and regulations respecting carload shipments of hogs maintained by defendants at certain points in the states of Wisconsin, Illinois, Iowa, and Minnesota unjustly discriminate against, and unduly prejudice complainant's members, patrons, and the public live-stock markets at Chicago and East St.

Louis, Ill., Denver, Colo., St. Louis, Kansas City, and St. Joseph, Mo., Omaha, Nebr., Sioux City, Iowa, Milwaukee, Wis., and St. Paul, Minn.; *Held*, That the evidence fails to show that the rules complained of are unjustly discriminatory as alleged. Complaints dismissed.

Greenfield & Co. v. *P. R. R. Co.* (47 I. C. C., 403.)

133. Complainant purchased coal of a coal-mining company to be delivered to complainant at a siding at the company's mine at Figart, Pa. The defendant refused to furnish cars for the interstate transportation of the coal, except upon condition that the cars so furnished should be counted against the allotment of cars to the mining company as determined by the rating of its mine and the defendant's rules of car distribution. Upon complaint alleging that the defendant's refusal to furnish cars as requested was unreasonable, unjustly discriminatory, and unduly prejudicial; *Held*, That the proper observance and impartial application of defendant's rules for the distribution of coal cars required it to pursue the course adopted, and its refusal to furnish cars under the circumstances disclosed upon this record was not unreasonable or otherwise unlawful. Complaint dismissed.

Michigan Percentage Cases. (47 I. C. C., 409.)

134. In constructing their class rates and commodity rates between points in central freight association territory and points east of Buffalo, N. Y., and Pittsburgh, Pa., the defendants have divided central freight association territory into a number of rate groups, the rates to and from which bear a fixed relation to the rates between Chicago, Ill., and New York, N. Y. To each group is assigned a "percentage," which indicates the relation between its rates and the Chicago-New York rates. Upon complaints alleging that the percentages assigned to certain groups in the state of Michigan are excessive, and that they result in rates to and from Michigan points which are unreasonable and unduly prejudicial; *Held*, The rates are not shown to be unreasonable, but they are unduly prejudicial to the complaining cities. The percentages assigned to the Michigan rate groups should not exceed those prescribed herein. Fourth section applications reserved for further hearing.

N. C. Pine Asso. v. *N. & W. Ry. Co.* (47 I. C. C., 460.)

135. Rates on pine lumber, in carloads, to Pittsburgh, Pa.; Buffalo, N. Y.; and points taking the same rates, from "Virginia cities" and certain intermediate points, and from certain points south of Virginia cities from which the rates from those gateways are applied as minima, found justified. Complaint dismissed.

National Utilization Corp. v. *B. & A. R. R. Co.* (47 I. C. C., 467.)

136. Rates on scrap waste leather, waste and refuse hair, fertilizer horn, and fur scrap, in carloads, from points in Connecticut and Massachusetts to Norfolk, Va., over all-rail and rail-and-water routes found justified. Complaint dismissed.

McFarland Lumber Co. v. *B. C. R. R. Co.* (47 I. C. C., 471.)

137. Charges on lumber, in carloads, from Platanus, Mo., to Cairo, Ill., found to have been unreasonable. Reparation awarded.

Kerr Bleaching & Finishing Works v. *O. D. S. S. Co.* (47 I. C. C., 472.)

138. Charges on talc, in carloads, from New York, N. Y., to Concord, N. C., found to have been unreasonable and unduly prejudicial. Reparation awarded.

Beall & Co. v. *O.-W. R. R. & N. Co.* (47 I. C. C., 474.)

139. Former finding that the charges on a tar-heating tank from Frankfort, N. Y., to Portland, Oreg., were legally applicable and not shown to have been unreasonable, unjustly discriminatory, or unduly prejudicial, affirmed on rehearing. Complaint dismissed.

Farmers' Elevator Co. v. *C., M. & St. P. Ry. Co.* (47 I. C. C., 475.)

140. Upon complaints that the defendant unjustly discriminated against complainants in favor of their competitors in the distribution of available cars for shipments of grain to various interstate markets from Vermilion, Burbank, Canton, Howard, Jefferson, and Dell Rapids, S. Dak., during the fall and winter of 1916–17; *Held*, That the distribution of cars by rotation unduly prejudiced complainants and unduly preferred their competitors. Defendant required to publish and observe reasonable car distribution rules.

Tuscaloosa Board of Trade v. *A. G. S. R. R. Co.* (47 I. C. C., 483.)

141. Upon complaint of undue prejudice and disadvantage to Tuscaloosa, Ala., in the class and commodity rate adjustment from Ohio River crossings, St. Louis, Mo.,

Memphis, Tenn., and other lower Mississippi River crossings and from points beyond, from Gulf, south Atlantic, and Virginia ports, from eastern cities and interior eastern points, and from Buffalo-Pittsburgh territory to Tuscaloosa, Birmingham, Montgomery, and Selma, Ala.; *Held*, That the disparities in the rates to the points named do not effect unlawful prejudice or disadvantage to Tuscaloosa. Complaint dismissed.

Wausau Southern Lumber Co. v. *G. & S. I. R. R. Co.* (47 I. C. C., 507.)

142. Rate on blower pipe in less than carloads from Chicago, Ill., to Laurel, Miss., found legally applicable and not shown to have been unreasonable. Complaint dismissed.

Stimson v. *L., H. & St. L. Ry. Co.* (47 I. C. C., 508.)

143. Rates on lumber, in carloads, from Owensboro, Ky., to New York and Brooklyn, N. Y., and Philadelphia, Pa., not shown to have been or to be unreasonable or unduly prejudicial. Complaint dismissed.

Stewart Iron Co. v. *P. Co.* (47 I. C. C., 512.)

144. Defendants' refusal to compensate complainant for the expense of spotting cars moving interstate to or from its plant at Sharon, Pa., while at the same time performing a like service without charge for complainants' competitors similarly situated found to have subjected complainant to undue prejudice. Reparation awarded.

Conquest & Son v. *S. A. L. Ry.* (47 I. C. C., 517.)

145. Rates on lumber in carloads from Chester, Va., to points west of the Buffalo-Pittsburgh line in New York, Pennsylvania, Ohio, and Michigan found to have been and to be unreasonable to the extent that they exceeded or exceed by more than 1.5 cents per 100 pounds the rates contemporaneously in effect from Richmond, Va., to the same destinations.

146. Rates on lumber in carloads from Chester to points on the Buffalo-Pittsburgh line and points east thereof found to have been and to be unreasonable to the extent that they exceeded or may exceed the local rates to Richmond or to Petersburg, Va., plus the proportional rates or established specifics beyond, observing the Virginia cities rates as minima.

147. Reparation awarded.

148. Fourth section relief denied.

Ala. Packing Co. v. *L. & N. R. R. Co.* (47 I. C. C., 524.)

Upon complaints which allege that the rates on live stock from East St. Louis, Ill., from Ohio River crossings, and from points in Kentucky and Tennessee to Birmingham and Montgomery, Ala., violate the provisions of sections 1, 3, and 4 of the act to regulate commerce, the defense admitting violations of sections 3 and 4 and offering to establish rates in conformity with the requirements of those sections; *Held:*

149. That the present rates are higher than the aggregates of the intermediate rates subject to the act and, to that extent, unreasonable.

150. That the defendants should be permitted to establish the reasonable rates suggested by them at the hearing, with certain modifications thereof pointed out in the report.

151. Particular rates condemned as unreasonable. Reparation awarded.

152. Relief from the provisions of the fourth section denied.

Omaha Grain Exch. v. *G. N. Ry. Co.* (47 I. C. C., 532.)

Upon complaint that an operating rule of the Great Northern Railway Company to the effect that its cars will not be permitted to go beyond its rails is unjustly discriminatory against shippers of grain moving under joint rates to Omaha, Nebr., from stations on the Great Northern in South Dakota; and that such a rule is unreasonable; *Held:*

153. That the evidence fails to show that the rule complained of is unjustly discriminatory against complainants, but does show that it is unreasonable.

154. That under joint rates carriers are obligated to send shipments through promptly from point of origin to destination.

155. That no operating rule is reasonable or lawful which requires holding of grain in cars for indefinite periods of time at junction points.

Lumber to Sioux City. (47 I. C. C., 540.)

156. Proposed increased rates on yellow-pine lumber, in carloads, from group 5, in the southern yellow-pine blanket, and intermediate group 8 to Sioux City and Morningside, Iowa, found not justified.

Fidelity Cotton Oil Co. v. *A. & V. Ry. Co.* (47 I. C. C., 542.)

157. A special rule of procedure, specifying the manner in which the parties may except to a report proposed by the examiner, is binding upon the parties, and the nonobservance thereof is condemned.

158. Rates on peanuts, shelled or unshelled, in carloads, from Houston, Tex., to St. Louis, Mo., Chicago, Ill., Milwaukee, Wis., Red Wing and St. Paul, Minn., Cleveland and Toledo, Ohio, Buffalo, N. Y., and points taking the same rates are not shown to be unduly prejudicial but are found unreasonable. Reasonable maximum rates prescribed for the future.

N. W. Traffic & Service Bureau v. *C., M. & St. P. Ry. Co.* (47 I. C. C., 549.)

159. Tolerance is the allowable margin of error between the origin and destination scale readings, arising from differences in scales or errors in weighings or from the absorption or evaporation of moisture by the shipment in transit, which must be exceeded as a condition precedent to the correction of the billed weight and the reweighing of the shipment free.

160. The question here involved is whether the increased total tolerance has been justified, even though the increase was effected by providing separately for a moisture tolerance as an addition to the previous scale tolerance; *Held*, That the increase of March 1, 1917, in the tolerance on coal is not justified.

Lincoln Commercial Club v. *C. & S. Ry. Co.* (47 I. C. C., 557.)

161. Upon complaint that rates on bituminous coal, nut, pea, and slack, in carloads, to stations on the Chicago, Burlington & Quincy Railroad, in the state of Nebraska—Sweetwater to Angora, both inclusive—from mines in the state of Colorado are unreasonable; and that the failure of defendants to publish and maintain lower rates on nut, pea, and slack coal to the same stations subjects complainants' members to undue and unreasonable prejudice and disadvantage and gives to other coal dealers located at other stations in the same general territory undue and unreasonable preference and advantage; *Held*, That the evidence shows the adjustment of rates complained of is, as regards nut coal, unduly prejudicial within the meaning of the act.

Ark. Rice Shippers Traffic Bureau v. *A. A. R. R. Co.* (47 I. C. C., 566.)

Upon complaint that the carload rates on clean rice and rice products from milling points in Arkansas to destinations in New England freight association territory, trunk line territory, central freight association territory, western trunk line territory, and Oklahoma are unreasonable and unduly prejudicial, and unjustly prefer shippers of rice and its products in Louisiana, Texas, New Orleans, and Memphis, *Held:*

162. That the group adjustment, considered as a whole, does not operate to the undue prejudice of the Arkansas shippers.

163. That the rates on rice and its products from Arkansas to destinations in the territories specified in the complaint, except in Oklahoma, are not shown to be unreasonable or unduly prejudicial except where such rates exceed the aggregates of the intermediate rates.

164. That the rates from Arkansas to destinations in Oklahoma are unreasonable to the extent that they exceed the rates prescribed herein.

165. Fourth section relief denied.

Rates between C. F. A. Territory and points on the C. & O. Ry., Lexington Dist. (47 I. C. C., 576.)

166. Fourth section relief granted the Cheasapeake & Ohio Railway and its connections to continue lower rates between central freight association territory on the one hand and Ashland and Louisville, Ky., on the other than are contemporaneously in effect on like traffic to and from intermediate points on the Lexington district of the Chesapeake & Ohio Railway between Ashland and Louisville.

McCaull-Dinsmore Co. v. *G. N. Ry. Co.* (47 I. C. C., 581.)

167. Former finding that certain unrouted carload shipments of bulk corn between points in Minnesota were misrouted by having been transported over a higher rated interstate route, while a lower rated intrastate route was available, reversed on reargument. Complaints will be dismissed unless complainants shall apply for further hearing on the reasonableness of the interstate rates charged.

Switching absorptions. (47 I. C. C., 583.)

168. A switching charge of 1 cent per 100 pounds, minimum $6 per car, assessed and proposed at Minneapolis, Minn., against connecting line carriers where they provide for absorption of switching charges, and assessed and proposed by the Chicago, Mil-

waukee & St. Paul Railway whether payable by shippers or absorbed by connecting lines found not justified.

169. Proposed increase in the intermediate switching charge of the Railway Transfer Company of Minneapolis and increased switching charges of the Minneapolis & St. Louis Railroad for intermediate switching performed for connecting carriers at Minneapolis, found not justified.

170. Proposed tariff changes limiting the amount of switching charges absorbed by the Minneapolis, St. Paul & Sault Ste. Marie Railway Company, found justified.

171. Refusal of carriers to absorb switching charges on inbound grain at Minneapolis not shown to be unreasonable or otherwise unlawful.

Reconsignment case. (47 I. C. C., 590.)

Upon consideration of increased charges and changes in regulations affecting the diversion or reconsignment of carload shipments, proposed by practically all of the carriers of the country; *Held:*

172. Proposed charges of $2 and $5 per car for change in name of consignor justified to the extent that they do not exceed $1 per car.

173. Rule providing that if request is made for the diversion or reconsignment of freight in carloads the carrier will make diligent effort to locate the shipment and effect the desired service, but will not be responsible for failure to do so unless such failure is due to negligence of its employees, justified as a continuation of the rule now in effect.

174. Proposed charge of $2 per car for diversion or reconsignment in transit prior to arrival of shipment at original destination or terminal yard serving that destination justified.

175. Proposed charge of $2 per car for diversion or reconsignment when order for that service is placed at billed destination in time to permit instructions to be given to yard employees prior to the arrival of the car justified.

176. Proposed charge of $2 per car for stopping car prior to arrival at billed destination to be held for orders justified.

177. Proposed charge of $5 per car for diversion or reconsignment at original destination to a point outside the switching limits, on orders received by the carrier after arrival, or too late to permit instructions to be given to yard employees before arrival, justified; but held that the same charge proposed for reforwarding to a similar point cars which have been placed for unloading but have not been unloaded has been justified only in so far as such charge will be lawful under the fourth section when considered in connection with the charges approved in rule 7.

178. Proposed charge of local tariff rates for reforwarding to a point within the switching limits cars which have been placed for unloading but have not been unloaded found justified.

179. Proposed rule found justified providing that—

(*a*) A single change in the name of the consignee at first destination and (or) a single change in the destination of his place of delivery at first destination, will be allowed without charge if orders is received in time to permit instructions to be given to yard employees prior to arrival of car at first destination or at the terminal yard serving such destination.

(*b*) If such orders are received in time to permit instructions to be given to yard employees within 24 hours after arrival of car at terminal yard a charge of $2 per car will be made.

(*c*) If such orders are received subsequent to 24 hours after arrival of car at terminal yard a charge of $5 per car will be made.

180. Proposed application of charges for reconsignment regardless of the method of freight rate construction justified.

181. Proposed regulation prohibiting reconsignment to an embargoed point justified in part.

182. With respect to certain provisions not included in the general rules; *Held:*

183. Increased charges for diversion and reconsignment proposed by certain New England carriers not justified.

184. Charges proposed by some respondents for transferring the contents of certain reconsigned cars not justified.

185. Charges proposed for diversion or reconsignment of grain and certain other commodities at Pittsburgh, Pa., and other points not found to be unreasonable in so far as they do not exceed the charges proposed in the general rules herein approved, but not approved because unjust discrimination would result from their application.

The New York harbor case. (47 I. C. C., 643.)

186. In constructing their class rates and most of their commodity rates between points in the west and Atlantic seaboard territory the defendants have divided the eastern part of the country into several large rate groups, one of which, known as the New York group, includes most of the northern part of the state of New Jersey, the city of New York, and points along the Hudson River almost as far north as Albany, N. Y. The principal allegation of the complaint is that the transportation of commodities to and from Manhattan and Brooklyn involves an expensive lighterage and floatage service not performed on traffic to and from points in the northern part of the state of New Jersey; that in view of the more favoable location of the latter points the rates between points in the west and Jersey City, Hoboken, Newark, Paterson, and other cities in northern New Jersey should be lower than the rates to and from Manhattan and Brooklyn; and that the defendants' policy of embracing all of these points in the same zone, and their consequent failure to recognize in the rate structure the cost of the lighterage and floatage service, subjects the people and the communities of northern New Jersey to undue prejudice and disadvantage, and operates to the undue preference and advantage of Manhattan and Brooklyn. It is also alleged that the rates between points in the west and points in the northern part of the state of New Jersey are unreasonable *per se; Held*, for reasons fully stated in the report, that the rates attacked are not shown to be unreasonable or otherwise unlawful.

187. The difference in transportation conditions justifies the allowance of more free time in the aggregate on shipments to Manhattan and Brooklyn than on shipments to points in the state of New Jersey. The question as to the amount of free time which should properly be allowed for holding on the New Jersey shore cars billed to "New York lighterage" has been determined in another proceeding, *New York Harbor Storage*, 47 I. C. C., 141.

188. Shipments arriving at holding yards on the New Jersey shore billed to "New York lighterage" and later ordered by the shipper or consignee to a specified destination within the lighterage limits may be forwarded for $2 per car, whereas cars reconsigned from Jersey City to points in New Jersey are subject to the usual reconsignment charge of $5 per car. *Held*, That the difference in transportation conditions justifies the difference in charges.

189. The allegation that the defendants subject northern New Jersey to undue prejudice by maintaining a superior freight service from Manhattan is not supported by the evidence.

190. The establishment of reciprocal switching arrangements on westbound traffic at Jersey City, Hoboken, and Weehawken would have the effect of shorthauling the carrier originating the traffic, and such a requirement by order of the Commission would therefore be contrary to the fifteenth section of the act to regulate commerce. Prayer for the establishment of interterminal switching arrangements for the interchange of eastbound carload traffic denied. Complaint dismissed.

Coal to South Dakota. (47 I. C. C., 750.)

191. In general rates should be a medium for effecting the movement of traffic and should not be erected as a barrier between a consuming point and a source of supply.

192. Finding of the original report, that the present rates on coal in carloads from certain Wyoming coal mines to South Dakota points are unreasonable, reaffirmed and reasonable rates prescribed for the future.

193. Petition for rehearing denied.

Transportation conditions. (47 I. C. C., 757.)

194. Special report submitted upon the transportation conditions as affecting and affected by the war in which the United States is now engaged.

American Sand & Gravel Co. v. *C. & N. W. Ry. Co.* (48 I. C. C., 1.)

195. Rates on sand and gravel, in carloads, from points on defendants' lines in northern Illinois to destinations in the state of Wisconsin not shown to be unreasonable or unduly prejudicial. Complaint dismissed.

Libby Lumber Co. v. *G. N. Ry. Co.* (48 I. C. C., 5.)

Upon complaint attacking the relationship of the rates on lumber, in carloads, from Libby, Mont., and from Columbia Falls and other Montana points, and Bonners Ferry, Idaho, to points on defendant's line in Montana as unduly prejudicial to Libby and unduly preferential of the other points named; *Held:*

196. That, except as between Libby and Bonners Ferry, the relationship complained of is not subject to our jurisdiction.

197. That the relationship between the rates from Libby and from Bonners Ferry does not unduly prejudice Libby or unduly prefer Bonners Ferry. Complaint dismissed.

Casey-Hedges Co. v. *C., N. O. & T. P. Ry. Co.* (48 I. C. C., 8.)

198. Former finding that a rate of 23 cents per 100 pounds on certain iron and steel articles, in carloads, from Cincinnati, Ohio, to Chattanooga, Tenn., was, and for the future would be, unreasonable to the extent that it exceeded or might exceed 19 cents, minimum 36,000 pounds, affirmed on rehearing.

Nappanee Lumber & Mfg. Co. v. *B. & O. R. R. Co.* (48 I. C. C., 13.)

199. Rate applicable on silo material, in carloads, from Nappanee, Ind., to La Grange, Ky., not shown to have been or to be unreasonable.

200. Rate applicable on silo material in less than carloads from Nappanee to Arnold, Ky., found to have been unreasonable. Reparation awarded.

201. Rate on silo material, in carloads, from Nappanee to Lancaster, Ky., not shown to have been or to be unreasonable.

202. Charges on silo material in less than carloads, from Nappanee to Taylorsville, Ky., found unreasonable. Reparation awarded.

Eastbound transcontinental roofing paper. (48 I. C. C., 17.)

203. Proposed cancellation of commodity rate on roofing paper and other commodities from California terminals to points in eastern defined territory, groups A to H, inclusive, found to be justified. Order of suspension vacated.

American Glue Co. v. *B. & M. R. R.* (48 I. C. C., 19.)

204. Rates on fleshings in carloads from Stoneham, Mass., to Keene, N. H., found to have been and to be unreasonable. Reparation awarded.

West Lumber Co. v. *M., K. & T. Ry. Co.* (48 I. C. C., 22.)

205. Rates on yellow-pine and hardwood lumber in carloads from points in Texas to Galveston and Texas City, Tex., for export and coastwise movement, found justified. Complaint dismissed.

Schaefer & Son v. *L. I. R. R. Co.* (48 I. C. C., 25.)

206. Demurrage charges at Long Island City on certain cars of hay held at that point and consigned to complainants at public team tracks at Bushwick station, Brooklyn, found to have been assessed without tariff authority.

Oriental Textile Mills v. *A. & V. Ry. Co.* (48 I. C. C., 31.)

207. Joint rates applicable on press cloth in carloads from Houston Heights, Tex., to destination in the Mississippi Valley found unreasonable to the extent that they exceed the aggregates of the intermediate rates; other rates on press cloth from Houston Heights to the southeast not found unreasonable or unduly prejudicial.

208. Rates on press cloth from Houston Heights, Tex., to destinations in central freight association and western trunk line territories not found unreasonable or unduly prejudicial.

209. Rating of press cloth in the official, western, and southern classifications at first class, any quantity, not found unreasonable or unduly prejudicial. Complainant's request for carload rating on press cloth not justified.

210. Fourth section relief denied to carriers maintaining carload rates on press cloth from Houston and Houston Heights, Tex., to Memphis, Tenn., New Orleans, La., and Vicksburg, Miss., and commodity rates on press cloth, any quantity, from Houston Heights, Tex., to certain destinations in central freight association and western trunk line territories.

211. Application of Louisville, Henderson & St. Louis Railway Company for relief from provisions of the fourth section granted.

Commercial Club of Mitchell v. *A. & W. Ry. Co.* (48 I. C. C., 40.)

212. Upon reargument, finding in the original report requiring the establishment of proportional class rates to Mitchell, S. Dak., from points of origin in the territory east of the Indiana-Illinois State line and north of the Potomac and Ohio rivers upon the basis set out in said report, affirmed.

213. Live poultry rate from Mitchell, S. Dak., to New York, N. Y., found unreasonable to the extent indicated herein.

Mayfield & Graves Co. Commercial Club v. *B. & O. R. R. Co.* (48 I. C. C., 45.)

214. Class rates from trunk line territory to Mayfield, Ky., found not unreasonable, but to be unduly preferential to Paducah and unduly prejudicial to Mayfield in so far as they fail to conform to the relationship herein prescribed.

215. Rates from Mayfield, Ky., to trunk line territory on unmanufactured tobacco in hogsheads, any quantity, not found to be unreasonable, unjustly discriminatory, or unduly prejudicial. Complaint dismissed.

Grain transit at Kansas stations. (48 I. C. C., 59.)

216. Proposed cancellation of waiver of out of line haul charges on grain, grain products, etc., from specified Missouri River points to New Orleans, La., Mobile, Ala., or other specified points, milled in transit at Abilene, Enterprise, Hutchinson, Salina, or Woodbine, Kans., and the effected cancellation of waiver of similar charges on like traffic moving under proportional rates to Gulf ports for export, found justified. Orders of suspension vacated.

Bascom-French Co. v. *A., T. & S. F. Ry. Co.* (48 I. C. C., 62.)

217. On rehearing, rate of 34 cents per 100 pounds on yellow-pine lumber and articles taking lumber rates, in carloads, from Texas and Louisiana producing territory to Las Cruces, N. Mex., not found unreasonable, unjustly discriminatory, or unduly prejudicial. Complaint dismissed.

Bascom-Porter Co. v. *A., T. & S. F. Ry. Co.* (48 I. C. C., 65.)

218. Upon rehearing, original finding that complainant is entitled to reparation on carload shipments of lumber from Louisiana and Texas producing points to Las Cruces, N. Mex., adhered to.

Ohio Cut Stone Co. v. *N. Y. C. R. R. Co.* (48 I. C. C., 69.)

219. Through rates on interstate traffic from and to complainants' plants near Amherst, Ohio, composed of the Amherst rates plus all or a portion of the Lorain & Southern Railroad's rates between complainants' plants and Lake Shore Junction, Ohio, found not to have been or to be unreasonable *per se.*

220. The refusal of the New York Central Railroad Company, on and after May 1, 1916, to make an allowance to the Lorain & Southern of more than $2.07 per car not shown to have been or to be unduly prejudicial to complainants.

221. The undue prejudice to the Ohio Quarries Company found in *Lorain & Southern R. R. Co. Case*, 37 I. C. C., 497, to have existed on and after April 1, 1914, not shown to have damaged complainant, and reparation denied.

Brown Stave Co. v. *St. L. & S. F. R. R. Co.* (48 I. C. C., 75.)

222. Rate on forest products, in carloads, from Canalou, Mo., to Thebes, Ill., destined beyond, found to have been and to be unreasonable. Reparation denied.

Berg Distilling Co. v. *P. R. R. Co.* (48 I. C. C., 77.)

223. Rate on imported blackstrap molasses, in carloads, from defendant's wharf to complainant's siding, both in Philadelphia, Pa., not shown to have been or to be unreasonable. Complaint dismissed.

Transcontinental commodity rates. (48 I. C. C., 79.)

224. Authority to file increased carload commodity rates from eastern defined territories to Pacific coast and points intermediate thereto granted.

225. Authority to cancel all less-than-carload commodity rates from eastern defined territories to Pacific coast and points intermediate thereto denied.

226. Authority to file increased less-than-carload commodity rates from eastern defined territories to Pacific coast points not higher than the present rates on the same items to points intermediate to the Pacific coast granted.

227. Authority sought by the Southern Pacific Company via water-and-rail routes through Galveston to file proposed increased rates from its New York piers on items as to which it concurs in higher rates via all-rail routes to Pacific coast points denied.

228. Authority to file increased export commodity rates from eastern defined territories to Pacific coast ports applicable on traffic destined to points in Japan, Australia New Zealand, Fiji Islands, the Philippine Islands, and Asiatic countries granted.

229. Authority to file increased import commodity rates from Pacific coast ports to points in eastern defined territories applicable on traffic from points in Japan, New Zealand, Australia, Fiji Islands, the Philippine Islands, and Asiatic countries granted.

230. Authority sought by rail-and-water lines through Galveston to increase rates on barley, beans, canned goods, asphaltum, dried fruits, and wine from Pacific coast ports in California to the Atlantic seaboard to the level of the all-rail rates on the same commodities granted.

231. Authority sought under the fourth section by the all-rail lines to meet via their routes the rates proposed by the Southern Pacific Company from and to New York via its route through Galveston to and from Pacific coast ports denied.

Wabash Pittsburgh terminal investigation. (48 I. C. C., 96.)

232. Inquiry concerning the character and extent of the service and the financial history, transactions, and practices of the Wabash Pittsburgh Terminal Railway Company, its leased properties, and predecessor companies, entered into and report made.

Western cement rates. (48 I. C. C., 201.)

233. Reasonable maximum joint through rates to key points and distance scales prescribed for the movement of cement in carloads between points in western trunk line territory and between points in adjacent territories and western trunk line territory.

234. Distances to be calculated via short-line workable routes.

235. Fourth section relief granted at points intermediate to key points, provided that the scale rates herein prescribed are not exceeded at such intermediate points, and that such rates are not in excess of the lowest combination.

236. A uniform minimum weight of 50,000 pounds prescribed for the entire territory; a rate 13 per cent higher than the basic rate may be published for a minimum of 38,000 pounds.

237. The practice of making through rates on cement on basis of combinations approved as to St. Paul but disapproved as to Missouri River crossings.

238. In an investigation to determine the reasonableness of cement rates, the Commission will not conduct a general inquiry into the reasonableness of switching rates at terminals.

239. Buffington, Ind., is within the limits of the Chicago switching district, and distances from and to Buffington should be calculated upon the basis of distances from and to Chicago.

240. Rates prescribed from Gilmore City, Iowa, to all interstate destinations within the territory.

241. Carriers directed to withdraw tariffs under suspension and to check in rates n accordance with the findings herein; formal complaints dismissed; fourth section applications denied, except where relief is consistent with the findings herein.

Oklahoma-Texas commodities. (48 I. C. C., 266.)

242. Proposed increased rates on crushed limestone, in carloads, from Ada, Okla., and on potatoes, in carloads, from certain points in Oklahoma, to certain points in Texas found not justified.

Williams Co. v. *H. & N. Y. T. Co.* (48 I. C. C., 269.)

243. The southern classification provides ratings on soap in containers other than glass and earthenware, any quantity, dependent upon the value of the soap declared in writing by the shipper; *Held*, That the rates on soap from Glastonbury and East Hartford, Conn., to points in southern classification territory, based on such classification ratings, which were in effect when the Cummins amendment of August 9, 1916, was approved, which rates the carriers have not been authorized or required to maintain by order of the Commission, are unlawful.

Abel & Roberts v. *M. P. Ry. Co.* (48 I. C. C., 275.)

244. Former findings that certain shipments of brick in carloads from Buffalo and Coffeyville, Kans., to Lincoln, Nebr., were overcharged, reversed on rehearing. Complaints dismissed.

Live stock from Nashville. (48 I. C. C., 277.)

245. Proposed increased proportional rates on live stock, in carloads, from Nashville, Tenn., to the Ohio River crossings and to St. Louis, Mo., and East St. Louis, Ill., for beyond, found not justified.

246. Proposed cancellation of rates on hogs, in double-deck cars, from Nashville to the Ohio River crossings and to St. Louis, Mo., and East St. Louis, Ill., found not justified. Suspended schedules ordered canceled without prejudice to the publication of rates which are substantially in accord with those suggested herein.

Shreveport-Texas cattle, lignite, wood, and tanbark. (48 I. C. C., 283.)

247. Order of July 7, 1916, in *Railroad Commission of Louisiana* v. *A. H. T. Ry. Co.*, 41 I. C. C., 83, vacated in so far as it applies to lignite, cordwood, and tanbark between Shreveport, La., and points in Texas.

248. Rates and carload minima prescribed in that order on beef and stock cattle between Shreveport and points in Texas modified to provide stock cattle rates to market points and carload minima of 20,000 pounds and 16,000 pounds on stock cattle and on calves, respectively, and to grade the distance scale more closely.

Sinclair & Co. v. *C., M. & St. P. Ry. Co.* (48 I. C. C., 295.)

249. Rates for the transportation of fresh meats, packing-house products, and other provisions, in peddler cars, from Cedar Rapids, Iowa, to points on the lines of defendants east of Chicago, Ill., found unreasonable to the extent that they exceed the lowest combinations of rates to and from the Mississippi River.

Cottonseed products to Texas. (48 I. C. C., 297.)

250. Proposed increased rates on cottonseed cake, meal, and hulls, in carloads, to points in Texas on the lines of the Chicago, Rock Island & Gulf Railway Company from points on the lines of the Chicago, Rock Island & Pacific Railway Company in Oklahoma, found not to have been justified. Suggested that commodity rates be established on the basis of rates prescribed in *Railroad Commission of Louisiana* v. *A. H. T. Ry. Co.*, 41 I. C. C., 83, 115.

Northern Potato Traffic Asso. v. *B. & O. R. R. Co.* (48 I. C. C., 303.)

251. Former finding as to reasonable carload minima on potatoes from points in Minnesota to points in official classification territory east of the Indiana-Illinois state line, modified in the light of additional evidence. Further found that a reasonable minimum for the month of May would be 30,000 pounds.

Helena Traffic Bureau v. *M. P. Ry. Co.* (48 I. C. C., 307.)

252. Rates on potatoes in carloads from points in Minnesota, Wisconsin, Colorado, and Wyoming to Helena, Ark., found unduly prejudicial to Helena and unduly preferential of Memphis, Tenn. Reasonable relationship prescribed for the future.

Railroad Commission of La. v. *A. H. T. Ry. Co.* (48 I. C. C., 312.)

Upon rehearing, *Held:*

253. That the order herein of July 7, 1916, prescribing reasonable maximum class rates and rates on certain commodities between Shreveport, La., and points in Texas should be modified in the particulars stated.

254. That it is unnecessary in this proceeding to prescribe commodity rates between Shreveport and Texas points on stone (rough); cottonseed oil and tank bottoms; binder twine; baskets; chocolate raw materials; glassware (table); horse and mule shoes; wrapping paper; printing paper; tin articles; wire and nails; door locks; tools, files, and rasps in carloads.

255. That it would result in undue prejudice to Shreveport for defendants to apply between Shreveport and Texas points any higher class rates or higher rates on the following commodities, in carloads, namely: Horses and mules; sand and gravel; common brick; fire brick; junk; machinery (gin and irrigation); glass fruit jars and bottles; iron and steel articles; potatoes and turnips; fruits, melons, and vegetables; empty barrels and kegs; blackstrap molasses; cotton seed, cottonseed cake and meal; cottonseed hulls and bran, rice bran, and rice hulls; unshelled peanuts; flour; wheat; corn; hay; agricultural implements (except hand implements); bagging and ties; cans, cases, and pails (tin); dry goods; window glass; oil (refined petroleum); iron and steel pipe; on other commodities taking the same rates; and on cotton piece goods, coarse, less than craloads; barrels, less than carloads; straight or mixed carloads of beverages, and of beverages and mineral or spring water; than they contemporaneously apply to the transportation of like commodities for like distances between Texas, except as noted in the report.

256. That the portion of the order requiring the application of the current western classification to the transportation of property between points in Texas should be modified.

Sunderland Bros. Co. v. *A., T. & S. F. Ry. Co.* (48 I. C. C., 377.)

257. Rates on cement, in carloads, from Chanute, Kans., to Zion and Macksburg, Iowa, unreasonable to the extent that they exceed the distance scale authorized in *Western Cement Rates*, 48 I. C. C., 201, for application in this territory. Reparation denied.

Southwestern class case. (48 I. C. C., 379.)

258. Proposed increased class rates between points in Oklahoma and points in Texas, between Oklahoma and Shreveport, La., between points in Kansas and the panhandle of Texas, and between points in Oklahoma on interstate traffic not justified. Tariffs under suspension ordered canceled without prejudice to the filing of tariffs in conformity with the findings of this report.

Cement to Montana. (48 I. C. C., 402.)

259. Proposed increased rates on cement, in carloads, from Kansas producing points to certain destinations upon the Chicago, Burlington & Quincy Railroad in South

Dakota, Wyoming, and Montana found not justified; respondents authorized to establish distance rates not in excess of scales III and IV as authorized in *Western Cement Rates, ante*, page 201, recently decided.

Prentice & Co. v. *N. Y. C. R. R. Co.* (48 I. C. C., 405.)

260. First-class rate on screen doors and window screens, in bundles or crates, in less than carloads, from Adrian, Mich., to Toledo, Ohio, found justified. Complaint dismissed.

Dougherty Co. v. *B. & O. R. R. Co.* (48 I. C. C., 407.)

261. Charges at Baltimore, Md., for trimming bituminous coal in single-deck vessels, with hatch openings of certain sizes, not found to have been or to be unreasonable or unduly prejudicial. Complaint dismissed.

Schlesinger v. *C. of Ga. Ry. Co.* (48 I. C. C., 413.)

262. Rate charged on glucose paste, in less than carloads, from New York, N. Y., to Atlanta, Ga., found to have been legally applicable and not shown to have been or to be unreasonable. Complaint dismissed.

Ewing & Co. v. *S. I. Ry. Co.* (48 I. C. C., 415.)

263. Charges applicable on a carload of cedar poles from Bayview, Idaho, to Whiting, Ind., not found to have been unreasonable or unduly prejudicial.

264. Shipment found to have been misrouted by initial carrier.

Sand Point Lumber & Pole Co. v. *N. P. Ry. Co.* (48 I. C. C., 418.)

265. Upon complaint attacking rate on cedar poles from Culver, Idaho, to Spokane, Wash., in a single car and thence to Twin Falls, Idaho, in conjunction with an "idler" car; *Held*, That neither the rate legally applicable nor that on single cars is shown to have been or to be unreasonable or unduly prejudicial. Complaint dismissed.

Rankin & Co. v. *C. R. I. & P. Ry. Co.* (48 I. C. C., 421.)

266. Rate legally applicable on a carload of cottonseed meal from Eldorado, Ark., to Colfax, Wis., not shown to have been unreasonable or unduly prejudicial. Shipments found to have been overcharged and refund directed. Complaint dismissed.

Ohio Salt Co. v. *B. & O. R. R. Co.* (48 I. C. C., 423.)

267. Carload of salt from Rittman, Ohio, to Iron River, Mich., found to have been misrouted. Refund directed.

Sharpless Co. v. *P., B. & W. R. R. Co.* (48 I. C. C., 425.)

268. Following *Hires Condensed Milk Co.* v. *P. R. R. Co.*, 38 I. C. C., 441, the official classification third-class rates on less-than-carload shipments of evaporated and condensed milk, liquid, in cans, boxed, found to have been unreasonable to the extent that they exceeded rates applicable under rule 26. Reparation awarded.

El Paso Iron & Metal Co. v. *G., H. & S. A. Ry. Co.* (48 I. C. C., 427.)

269. Charges on a mixed carload of bat guano and bones from El Paso, Tex., to Los Angeles, Cal., not shown to have been unreasonable. Complaint dismissed.

Roylance Co. v. *D. & R. G. R. R. Co.* (48 I. C. C., 429.)

270. Minimum weight of 26,000 pounds applied on certain carloads of peaches from Utah points to eastern destinations prior to September 10, 1914, found to have been legally applicable, and not shown to have been unreasonable. Complainant not shown to have been damaged by the undue prejudice or unjust discrimination alleged. Complaint dismissed.

Terhune Lumber Co. v. *G. & S. I. R. R. Co.* (48 I. C. C., 433.)

271. Rates on pine lumber in carloads from various points in Louisiana, Mississippi, and Alabama to Kittanning, Pa., not shown to have been unreasonable. Complaints dismissed.

Good v. *G. N. Ry. Co.* (48 I. C. C., 435.)

272. Complaint assailing the through rates on pine and fir lumber in carloads from Waldo, British Columbia, to points in North Dakota dismissed.

Webster v. *St. L. S. W. Ry. Co.* (48 I. C. C., 436.)

273. Charges on a carload of rough gum lumber from Clio, Ark., held in transit at Thebes, Ill., and forwarded to Peru, Ind., found to have been legally applicable and not shown to have been unreasonable. Complaint dismissed.

Producers Sales Co. v. *N. Y., N. H. & H. R. R. Co.* (48 I. C. C., 438.)

274. Carload and less-than-carload rates, and the carload minimum, applicable from St. Louis, Mo., to Fort Worth and Dallas, Tex., on oysters and other shellfish originating at Providence, R. I., South Norwalk, Conn., and Bayshore, N. Y., and the through rates from and to the points of origin and destination, not shown to have been or to be unreasonable, unjustly discriminatory, or unduly prejudicial.

275. Icing charge of $42.50 per car, applicable in western classification territory on such shipments, in carloads, not shown to have been or to be unreasonable or unduly prejudicial. Complaint dismissed.

Woolman & Co. v. *T., St. L. & W. R. R. Co.* (48 I. C. C., 441.)

276. Charges on a carload of baled hay from Fort Jennings, Ohio, to Paterson, N. J., not shown to have been unreasonable or otherwise in violation of the act. Complaint dismissed.

Enochs & Wortman v. *I. C. R. R. Co.* (48 I. C. C., 443.)

277. Rates on yellow-pine lumber, in carloads, from points in Louisiana and Mississippi to Metropolis, Ill., and Paducah, Ky., not shown to have been unreasonable. Complaints dismissed.

Western Carolina Lumber & Timber Asso. v. *V. C. Ry. Co.* (48 I. C. C., 445.)

278. Rate on logging cars in carloads from Damascus, Va., to Judson, N. C., found to have been legally applicable and not shown to have been unreasonable. Complaint dismissed.

Sealy Mattress Co. v. *S. L. Ry. Co.* (48 I. C. C., 447.)

279. Rates on mattresses in carloads from Sugar Land and Houston, Tex., to Chicago, Ill., and from Sugar Land to St. Joseph, Mo., not shown to have been unreasonable. Complainant not shown to have been damaged by the unjust discrimination or the undue prejudice alleged. Complaint dismissed.

Hollingshead & Blei Co. v. *M. & N. A. R. R. Co.* (48 I. C. C., 449.)

280. Rate on oak staves, in carloads, from Harrison, Ark., to New York, N. Y., not shown to have been unreasonable or unjustly discriminatory. Complaint dismissed.

American Window Glass Co. v. *S. Ry. Co.* (48 I. C. C., 451.)

281. Following *Central Commercial Co.* v. *L. & N. R. R. Co.*, 27 I. C. C., 114, 33 I. C. C., 164, and *Doran & Co.* v. *N., C. & St. L. Ry.*, 33 I. C. C., 523; *Held*, That defendants should have permitted the diversion of a carload of cullet from Winston-Salem, N. C., to New Kensington, Pa., at Potomac Yard, Va., to Jeannette, Pa., on basis of the through rate from Winston-Salem to Jeannette, plus a maximum charge of $5 for the extra services incident to the diversion. Defendants authorized to waive collection of certain undercharges.

Wilson Remover Co. v. *C., M. & St. P. Ry. Co.* (48 I. C. C., 453.)

282. Certain storage charges on a shipment of varnish remover at Kansas City, Mo., found to have been unreasonable.

Galloway Co. v. *G. B. & W. R. R. Co.* (48 I. C. C., 455.)

283. The unauthorized movement of a manure spreader from Sturgeon Bay, Wis., to Fish Creek, Wis., consigned from Aladdin, Iowa, to Sturgeon Bay, *Held* not to be a violation of the act to regulate commerce. Refund of overcharges directed and complaint dismissed.

Sondheimer Co. v. *St. L., I. M. & S. Ry. Co.* (48 I. C. C., 457.)

284. Rate on lumber, in carloads, from Junk's Spur, Waterproof, St. Joseph, Newellton, Sondheimer, Lake Providence, and Milliken, La., to Thebes, Ill., not shown to be unreasonable or unduly prejudicial. Complaint dismissed.

Gulf Lumber Co. v. *G. & S. R. R. R. Co.* (48 I. C. C., 461.)

285. Charges on yellow-pine lumber, in carloads, from Fullerton, La., to various Kansas and Nebraska points, found to have been illegal and refund directed.

Bertles & Bertles v. *M. C. R. R. Co.* (48 I. C. C., 463.)

286. Allegation that demurrage charges at Detroit, Mich., on a carload of lumber shipped from Klickitat, Wash., were unreasonable and unduly discriminatory not sustained. Complaint dismissed.

Carrollton Excelsior & Fuel Co. v. *N. O. & N. E. R. R. Co.* (48 I. C. C., 464.)

287. Complaint alleging undue prejudice by reason of the maintenance of lower rates on excelsior in carloads to New Orleans, La., from Enterprise, Miss., than from New Orleans to Hattiesburg, Miss., and other points, dismissed.

Kaufman & Sons Co. v. *C. R. R. Co. of N. J.* (48 I. C. C., 465.)

288. Rate on roll scale in carloads from Elizabethport, N. J., to Coatesville, Pa., not shown to have been or to be unreasonable. Complaint dismissed.

Dewey Bros. Co. v. *P., C., C. & St. L. R. R. Co.* (48 I. C. C., 467.)

289. Complaint alleging that the charges on a carload of wheat from Xenia, Ohio, to New York, N. Y., were illegal and unreasonable, dismissed.

Fullerton-Powell Hardwood Lumber Co. v. *St. L. S. W. Ry. Co.* (48 I. C. C., 468.)

289-a. Rate on oak lumber in carloads from Little Rock, Ark., originally consigned to Cypress, Ill., stopped in transit at Thebes, Ill., and reshipped to Minneapolis, Minn., found to have been legally applicable and not shown to have been unreasonable. Complaint dismissed.

Roth-Blum Packing Co. v. *S. P. Co.* (48 I. C. C., 470.)

290. Rates charged on live stock, in carloads, to San Francisco, Cal., from points in Nevada, Utah, Oregon, and New Mexico, and from points in California over an interstate route, not shown to have been unreasonable. Complainants not shown to have been damaged by undue prejudice in the past.

291. Present parity of rates on live stock from the same points to San Francisco and to Oakland, Cal., not shown to unduly prefer the former or unduly prejudice the latter. Complaint dismissed.

292. Fourth section relief denied.

Kansas Buff Brick & Mfg. Co. v. *M. P. Ry. Co.* (48 I. C. C., 473.)

293. Rate on common brick, in carloads, from Buffville, Kans., to Brinkley, Ark., found to have been unreasonable. Reparation awarded.

294. Fourth section relief denied.

Butters Lumber Co. v. *A. C. L. R. R. Co.* (48 I. C. C., 475.)

295. Rates on lumber, in carloads, from Whiteville, Lake Waccamaw, and Boardman, N. C., to Norfolk and Pinners Point, Va., and points north thereof, found to have been unreasonable. Reparation awarded.

296. Fourth section relief denied.

El Paso Iron & Metal Co. v. *A., T. & S. F. Ry. Co.* (48 I. C. C., 479.)

297. Rate on second-hand empty beer bottles, in carloads, from Socorro, N. Mex., to El Paso, Tex., found to be have been and to be unreasonable. Reparation awarded.

Astoria Box Co. v. *S., P. & S. Ry. Co.* (48 I. C. C., 481.)

298. Rates on fir lumber and its products, in carloads, from certain points on the Astoria division of the Spokane, Portland & Seattle Railway to points on defendants' lines in Idaho and Utah not shown to be unreasonable, but found to be unduly prejudicial to the extent that they exceed the rates contemporaneously applicable on fir lumber from points on the Oregon-Washington Railroad & Navigation Company in Washington to the same destinations.

Richwood Lumber Co. v. *St. L. & S. F. R. R. Co.* (48 I. C. C., 485.)

299. Charges on two carloads of sand from West Tulsa, Okla., to Fairview and Wheaton, Mo., found to have been illegal.

300. Shipments found to have been misrouted by the St. Louis & San Francisco Railroad Company.

301. Reparation awarded.

Otis Elevator Co. v. *N. Y. C. R. R. Co.* (48 I. C. C., 487.)

302. Rate on elevator guides, in carloads, from East Buffalo, N. Y., to Denver, Colo., found to have been and to be unreasonable. Reparation awarded.

Business Men's League of Helena v. *St. L., I. M. & S. Ry. Co.* (48 I. C. C., 490.)

303. Defendants found to unduly prefer Pine Bluff, Ark., and to unduly prejudice Helena, Ark., in the matter of concentration rules on cotton shipped from certain points in Arkansas and Louisiana to Boston, Mass., and points basing thereon.

Standard Oil Co. v. *Y. & M. V. R. R. Co.* (48 I. C. C., 493.)

304. Rates on petroleum refined oil and gasoline, in tank-car loads, from North Baton Rouge, La., and Wood River, Ill., to Kennedy, Ala., found to have been unreasonable. Reparation awarded.

305. Fourth section relief denied.

Penrod, Jurden & McCowen v. *M. & O. R. R. Co.* (48 I. C. C., 496.)

306. Rates on walnut logs, in carloads, from Jackson and Aberdeen, Miss., to Memphis, Tenn., found unreasonable. Reparation awarded.

307. Fourth section relief denied.

Mosby v. *Y. & M. V. R. R. Co.* (48 I. C. C., 499.)

308. Charges on a carload of cypress shingles from McKenzie, Miss., to Mckenzie, Tenn., not shown to have been unreasonable, unjustly discriminatory, or unduly prejudicial. Shipment found to have been overcharged and reparation awarded.

309. Fourth section relief denied.

Knight Woolen Mills v. *D. & R. G. R. R. Co.* (48 I. C. C., 501.)

310. Rates legally applicable on certain carloads of wool in the grease from Nelson, now Ellison, and Winnemucca, Nev., to Smoot and Provo, Utah, found to have been unreasonable. Reparation awarded.

Flanley Grain Co. v. *C., St. P., M. & O. Ry. Co.* (48 I. C. C., 505.)

311. Charges legally applicable on bulk corn, in carloads, from Hospers, Iowa, to Atchison, Kans., not shown to have been unreasonable, unjustly discriminatory, or unduly prejudicial. Complaint dismissed.

McCaull-Dinsmore Co. v. *C., B. & Q. R. R. Co.* (48 I. C. C., 507.)

312. Rates on corn, in carloads, from Sheldon, Iowa, to Kansas City, Mo., and Leavenworth, Kans., not shown to have been or to be unreasonable, unjustly discriminatory, or unduly prejudicial. Complaint dismissed.

Unit Marketing System v. *St. L., B. & M. Ry. Co.* (48 I. C. C., 510.)

313. Defendant's rule that standard refrigeration charges will be assessed on carload shipments of precooled vegetables in iced refrigerator cars, initially iced by the shipper and tendered with instructions not to re-ice in transit, not found to be unreasonable. Complaint dismissed.

Srere Bros. & Co. v. *C., C., C. & St. L. Ry., Co.* (48 I. C. C., 515.)

314. Increased rating in official classification territory on wet rag pulp, in carloads, found justified. Complaint dismissed.

Showers Bros. Co. v. *A. A. R. R. Co.* (48 I. C. C., 518.)

315. Ratings applied by defendants in official classification territory on kitchen cabinets and kitchen-cabinet tables, in less than carloads, increased since Janaury 1, 1910, found justified, and those not so increased not shown to have been or to be unreasonable, unjustly discriminatory, or unduly prejudicial. Complaint dismissed.

Swift & Co. v. *P., C., C. & St. L. Ry. Co.* (48 I. C. C., 525.)

316. Defendants' failure to provide a peddler-car service on fresh meats, packing-house products, and other articles shipped by packing houses, in less than carloads, from Chicago, Ill., to points on the Hocking Valley Railway between Columbus and Gallipolis, Ohio, and from Chicago and East St. Louis, Ill., to points on the Norfolk & Western Railway between Cincinnati, Ohio, and Columbus, on the one hand, and Naugatuck, W. Va., on the other, found to be unreasonable. Peddler-car service and maximum reasonable rates therefor prescribed for the future.

Claims for loss and damage of grain. (48 I. C. C., 530.)

317. Claims against carriers for the loss and damage of grain and grain products shipped in bulk, and the regulations and practices observed in connection with the presentation, investigation, and adjustment of such claims, analyzed and discussed. Carriers and shippers given opportunity to confer and agree upon rules and practices to be followed in filing, investigating, and disposing of claims. The proceeding held open for such further action as may be found necessary or proper.

Grain screenings rating. (48 I. C. C., 576.)

318. Respondents having offered no justification for the proposed increased rates on grain screenings, in carloads, the suspended schedules are ordered canceled.

Crushed rock from Pixleys. (48 I. C. C., 577.)

319. Proposed increased charges on crushed rock, in carloads, from Pixleys, Mo., to points on the line of the Kansas City Terminal Railway in the switching district of Kansas City, Kans., found justified.

Carolina Wood Products Co. v. *S. Ry. Co.* (48 I. C. C., 582.)

320. Upon complaint that through charges on chestnut extract wood, in carloads from stations on the Louisville & Nashville Railroad in Georgia to Andrews, N. C., on the Southern Railway, are unreasonable and unduly prejudicial; *Held*, That the through charges are shown to be unreasonable. Reasonable maximum through charges prescribed for the future. Reparation awarded. Fourth section relief denied.

National Wool Growers' Asso. v. *B.-G. R. R. Co.* (48 I. C. C., 587.)

Upon a complaint which alleged violation by the defendants of sections 1 and 3 in that the rates maintained by them on cottonseed cake and cottonseed meal from points in the Imperial Valley, Cal., to points in Nevada, Utah, Colorado, Wyoming, Montana, Idaho, Oregon, and California, when the traffic moves through other states, exceed a certain scale, *Held:*

321. That no undue prejudice or disadvantage has been shown.

322. That the present rates, in some instances, are unreasonable.

323. And that a readjustment of these rates is necessary. Reasonable rates established.

Ala. Packing Co. v. *A. G. S. R. R. Co.* (48 I. C. C., 596.)

324. Defendants' rates for the transportation of hogs and cattle in carloads from New Orleans, La., to Birmingham, Ala., found unreasonable. Reparation awarded.

325. Authority to continue rates on cattle, hogs, and sheep in carloads from Milneberg, La., to Birmingham, which are lower than the rates contemporaneously maintained on like traffic from New Orleans and other intermediate points, denied.

W. Va. Rail Co. v. *C. & O. Ry. Co.* (48 I. C. C., 600.)

326. Rates for the interstate transportation of light section steel rails, in carloads, from Huntington, in the State of West Virginia, to points on the line of the Norfolk & Western Railway, in West Virginia and Virginia, certain of which were prescribed by the Commission in *West Virginia Rail Co.* v. *B. & O. R. R. Co.*, 26 I. C. C., 622, not shown to have been or to be unreasonable, unjustly discriminatory, or unduly prejudicial. Complaint dismissed.

Lunham & Moore v. *C. R. R. Co. of N. J.* (48 I. C. C., 611.)

327. Upon complaint brought to determine the liability of complainant in respect of certain demurrage charges on a shipment of oil alleged to have been loaded contrary to instructions; *Held*, That the evidence of record does not show the charges to have been improperly assessed. Complaint dismissed.

Montgomery-Jackson Grain Products. (48 I. C. C., 615.)

328. Proposed cancellation of commodity rate on coarse grain products, in straight or mixed carloads, from Montgomery, Ala., to Jackson, Miss., found justified. Orders of suspension vacated.

King Elevator Co. v. *C., B. & Q. R. R. Co.* (48 I. C. C., 618.)

329. On reconsideration, rate charged on bulk corn, in carloads, from Homer, Nebr., to Joplin, Mo., found to have been illegal. Reparation awarded.

Marting Iron & Steel Co. (48 I. C. C., 620.)

330. The Marting Iron & Steel Co. by the operation of its plant tracks acts only in the capacity of a plant facility and not as a common carrier.

331. The trunk lines may not make any allowance for switching between points of interchange and points of final placement within the plant of the steel company.

Beebe Grain Co. v. *B., A. & P. Ry. Co.* (48 I. C. C., 623.)

332. Rates on grain, grain products, hay, and straw, in carloads, from points on the Oregon Short Line Railroad in Idaho, Utah, Wyoming, and Oregon to Butte, Mont., and the additional charges for switching to complainants' industries at Butte, not shown to have been or to be unreasonable, unjustly discriminatory, or unduly prejudicial.

333. Increased rates on flour and mill stuffs, in carloads, from Blackfoot, Shelley, Lincoln, Idaho Falls, and Roberts, Idaho, to Butte found justified. Complaint dismissed.

Spokane Lumber Co. v. *G. N. Ry. Co.* (48 I. C. C., 627.)

334. Rates on lumber, in carloads, from certain points in Washington and Idaho taking Spokane rates to points in Kansas and Colorado found to have been and to be unreasonable. Reasonable rates prescribed and reparation awarded.

335. Fourth section relief granted in part.

Fruit Dispatch Co. v. *P. & R. Ry. Co.* (48 I. C. C., 634.)

336. Failure of defendants to install door boards or slats for the protection of certain imported shipments of bananas, in carloads, from New York, N. Y., Greenville, N. J., Philadelphia, Pa., and Baltimore, Md., to various interstate points found to have been unlawful. Reparation awarded.

Westport Stone Co. v. *C., C., C. & St. L. Ry. Co.* (48 I. C. C., 637.)

337. Upon complaint that the practice of the Cleveland, Cincinnati, Chicago & St. Louis Railway Co. of switching inbound and outbound cars to and from convenient points on switch tracks serving quarries of the St. Paul Stone Co. and the Greeley Stone Co. without charge in addition to the line-haul rates while refusing to perform similar services for complainants or to compensate them for performing such services themselves, was unreasonable and unduly prejudicial; *Held*, That the practice complained of is unduly prejudicial, and that the refusal of defendants since April 2, 1914, to make an allowance of $1 per car to complainants for their services in switching certain interstate carloads of stone was unreasonable. Reparation awarded.

Chattanooga Sewer Pipe & Fire Brick Co. v. *S. Ry. Co.* (48 I. C. C., 642.)

338. Transportation of sewer pipe, in carloads, from Chattanooga, Tenn., to points in North Carolina, and the intrastate transportation of the same commodity within North Carolina, *Held*, not shown to be performed under substantially similar transportation conditions. Finding that the North Carolina intrastate rates on that commodity for like distances subject complainant and its traffic and the city of Chattanooga to undue prejudice and disadvantage, and accord North Carolina shippers an undue preference and advantage, contained in the original report herein, 41 I. C. C., 406, reversed on further hearing. Complaint dismissed.

Smith & Co. v. *S. Ry. Co.* (48 I. C. C., 647.)

339. Charges collected on shipments of wheat from Chicago, Ill., to Knoxville, Tenn., milled, and the products reshipped to various interstate points found not to have been illegally assessed. Following *Cairo Board of Trade* v. *C., C., C. & St. L. Ry. Co.*, 46 I. C. C., 343, the allegations of unreasonableness and unjust discrimination not considered, as the necessary parties were not made defendants. Complaint dismissed.

Stephens v. *St. L. & S. F. R. R. Co.* (48 I. C. C., 649.)

340. Claim for reparation on a carload of emigrant movables from Boswell, Okla., to Clarksville, Ark., dismissed for want of proof.

Grouping of Monessen and Donora. (48 I. C. C., 650.)

341. Upon reargument on the question of the grouping of Monessen and Donora; *Held*, That Monessen and Donora may not justly be grouped either with Johnstown or with Pittsburgh, but that, for the transportation of iron ore in carloads to these two furnace points from the lower Lake Erie ports, a reasonable and just rate for the line-haul service will be such as does not exceed by more than 6 cents per long ton the rate contemporaneously charged and assessed by the carriers to points in the Pittsburgh-Wheeling group.

Butte Wholesale Grocery Co. v. *B., A. & P. Ry. Co.* (48 I. C. C., 657.)

342. Rates on sugar, in carloads, from San Francisco, Oakland, Crockett, and Potrero, Cal., to Montana points, between Ravalli and Lewistown, inclusive, not shown to be unreasonable, unjustly discriminatory, or unduly prejudicial. Complaints dismissed.

343. Fourth section relief granted.

United Verde Copper Co. v. *P. Co.* (48 I. C. C., 663.)

344. Charges on mine cars in carloads from Youngstown, Ohio, to Clarkdale, Ariz., ound to have been illegal. Reparation awarded.

Belzoni Hardwood Lumber Co. v. *S. Ry. Co. in Miss.* (48 I. C. C., 665.)

345. Rates charged on hardwood lumber, in carloads, from Belzoni, Miss., to Atlanta, Dalton, and Columbus, Ga., and the present rates from Belzoni to Atlanta and Dalton found justified, and to Columbus not shown to be unreasonable, unjustly discriminatory, or unduly prejudicial. Complaint dismissed.

Alton Mercantile Co. v. *I. C. R. R. Co.* (48 I. C. C., 668.)

346. Rate on green coffee, in carloads, from New Orleans, La., and Galveston, Tex., to Enid., Okla., not shown to have been or to be unreasonable, unjustly discriminatory, or unduly prejudicial. Complaint dismissed.

347. Fourth section relief denied.

Pittman & Harrison Co. v. *F. W. & R. G. Ry. Co.* (48 I. C. C., 671.)

348. Charges on oats in carloads from Blanket, Tex., to Mobile, Ala., stopped in transit at Sherman, Tex., found to have been unreasonable. Reparation awarded.

Orange Rice Mill Co. v. *T. & N. O. R. R. Co.* (48 I. C. C., 673.)

349. Rate on imported blackstrap molasses, in tank-car loads, from New Orleans, La., to Orange, Tex., found to have been unreasonable. Reparation awarded.

W. Va. Rail Co. v. *P., C., C. & St. L. Ry. Co.* (48 I. C. C., 675.)

350. Rate on old steel rails, in carloads, from Pittsburgh, Pa., to Huntington, W. Va., found to be unduly prejudicial to the extent that it exceeds or may exceed the rate contemporaneously in effect on new steel rails, in carloads, from and to the same points.

National Wholesale Lumber Dealers Asso. v. *S. Ry. Co.* (48 I. C. C., 679.)

351. Charges on a carload of hardwood lumber from Andrews, N. C., to North Philadelphia, Pa., diverted to Coopers Point, N. J., found to have been illegal.

352. Shipment found to have been misrouted by the Southern Railway Company.

353. Reparation awarded.

Tonies v. *S. Ry. Co.* (48 I. C. C., 681.)

354. Rate on whisky, in glass and in wood, in mixed carloads, from Louisville, Ky., to Joplin, Mo., not shown to have been or to be unreasonable. Complaint dismissed.

Purity Ice Cream Co. v. *A., T. & S. F. Ry. Co.* (48 I. C. C., 684.)

355. Rates on rock salt, in bulk, in carloads, from Lyons and Kanopolis, Kans., to Tulsa, Okla., found to have been and to be unreasonable. Reparation awarded.

356. Fourth section relief denied.

Lexington Flouring Mills v. *M. P. Ry. Co.* (48 I. C. C., 687.)

357. Charges on flour in carloads from Fort Smith and Branch, Ark., to Lexington, Mo., found to have been illegal. Reparation awarded.

Algonite Stone Mfg. Co. v. *A., T. & S. F. Ry. Co.* (48 I. C. C., 689.)

358. Rate on artificial stone, in carloads, from St. Louis, Mo., to Drumright, Okla., found to have been unreasonable. Reparation awarded.

Union Hay Co. v. *C. & N. W. Ry. Co.* (48 I. C. C., 691.)

359. Demurrage charges collected on carload shipments of hay at Madison, Wis., and Chicago, Ill., found to have been lawfully assessed and not shown to have been unreasonable.

360. Reconsigning charge assessed at Madison on a carload of hay from Augusta, Wis., to Chicago not shown to have been unlawful. Complaints dismissed.

Eagle Pass Lumber Co. v. *G., H. & S. A. Ry. Co.* (48 I. C. C., 693.)

361. Local rates on lumber, in carloads, from various points of origin in Louisiana and eastern Texas to Eagle Pass, Tex., destined to points in Mexico, not shown to have been unreasonable. Complaint dismissed.

Boorman-Power Lumber & Implement Co. v. *C., R. I. & P. Ry. Co.* (48 I. C. C., 695.)

362. Rate on wooden rollers, without metal spindles, in carloads, from Baton Rouge, La., to Gilman, Mont., found to have been unreasonable. Reparation awarded.

Christopher & Simpson Iron Works Co. v. *P. R. R. Co.* (48 I. C. C., 697.)

363. Charges on columns, beams, girders, and twisted bars, in mixed carloads, from Pittsburgh, Pa., to Prescott, Ariz., fabricated at St. Louis, Mo., found to have been illegal and unreasonable. Reparation awarded.

Louisville Point Lumber Co. v. *M. C. R. R. Co.* (48 I. C. C., 699.)

364. Charges on lumber, in carloads, from Detroit, Mich., to East Cambridge, Mass., found to have been legally applicable. Complaint dismissed.

Procter & Gamble Co. v. *A. G. S. R. R. Co.* (48 I. C. C., 701.)

365. Rates on peanut oil, in tank-car loads, from Marshall and certain other points in Texas to Ivorydale, Ohio, found to have been unreasonable. Reparation awarded.

Stein Junk Co. v. *S. Ry. Co.* (48 I. C. C., 703.)

366. Charges on machinery, in carloads, from Atlanta, Ga., to Harrisburg, Pa., found to have been legally applicable and not shown to have been unreasonable.

367. Charges on scrap iron, in carloads, from Augusta, Ga., to Harrisburg, found to have been illegal. Reparation awarded.

Finkbine Lumber Co. v. *G. & S. I. R. R. Co.* (48 I. C. C., 705.)

368. Upon complaint that defendant's refusal to make complainant an allowance of $3 per car for performing a switching and weighing service on carload traffic from its mill to the point of interchange with defendant's line at Wiggins, Miss., is unreasonable and in violation of section 15 of the act; *Held*, That in the absence of unjust discrimination defendant was under no obligation to perform the service requested and that defendant's refusal to make complainant an allowance for performing the service was not unlawful or reasonable. Complaint dismissed.

Wooden package rating. (48 I. C. C., 708.)

369. Proposed class C rating on wooden pails, tubs other than butter tubs, and kits, and on fiber board pails, in straight or mixed carloads, or when mixed with wooden barrels, kegs, well buckets, and drums, in western trunk line territory, found justified.

370. Proposed increased rating on butter tubs found not justified. Suspended schedules ordered canceled.

Honaker Lumber Co. v. *N. & W. Ry. Co.* (48 I. C. C., 715.)

371. Rates on lumber, carloads, from points on the Norfolk & Western and its connections in Virginia and West Virginia to points in central Pennsylvania, New Jersey, New York state other than New York, Connecticut, and Rhode Island, found unreasonable and unjustly discriminatory to the extent that rates on lumber other than oak, spruce, and hemlock exceed the rates on oak, spruce, and hemlock.

372. Carload rates from the same originating territory, on lumber other than oak, spruce, and hemlock, to Baltimore and Philadelphia and points grouped with either destination not found unreasonable, but found unjustly discriminatory; removal of unjust discrimination required.

373. Except for the unjust discrimination found in the maintenance of different rates on different kinds of lumber from originating points on the Norfolk & Western and its connections, rates from these points of origin found not unduly prejudicial as compared with lumber rates from the Charleston, W. Va., district to the same destinations.

374. Except for the unjust discrimination found in the maintenance of different rates on different kinds of lumber from the same originating points, rates to Reading and Philadelphia not shown to be unduly prejudicial to points in central Pennsylvania, north of Harrisburg.

Montano v. *P., C., C. & St. L. Ry. Co.* (48 I. C. C., 728.)

375. Upon complaint to enforce the construction of a physical connection between the tracks of the Pittsburgh, Cincinnati, Chicago & St. Louis Railway and the Dayton & Union Railway; *Held*, That the Commission is without authority to grant the relief sought.

Tulsa Traffic Asso. v. *A., T. & S. F. Ry. Co.* (48 I. C. C., 731.)

376. Commodity rates on coconuts and pineapples, in carloads, from New Orleans, La., to Tulsa, Okla., found unjust, unreasonable, and unduly prejudicial, and just, reasonable, and nondiscriminatory rates prescribed.

Laird v. *T. & N. Ry. Co.* (48 I. C. C., 733.)

377. Rates on live stock in carloads, from Tabor, Iowa, to South Omaha, Nebr., found unreasonable. Reasonable maximum rates prescribed for the future.

Petroleum from Oklahoma points. (48 I. C. C., 737.)

378. Restrictions proposed by Atchison, Topeka & Santa Fe Railway Company upon application of carload rates on petroleum and petroleum products from points in Oklahoma to various interstate destinations found not justified. Suspended schedules ordered canceled.

The Southeastern sugar cases. (48 I. C. C., 739.)

379. General readjustment of commodity rates on sugar from New Orleans, La., and from the north and the south Atlantic ports to points in the southeast found justified. Complaints dismissed.

Bright Emery Co. v. *Amer. Exp. Co.* (49 I. C. C., 1.)

380. Following *Robinson Co.* v. *American Express Co.*, 38 I. C. C., 733, rate on berries in carloads from Hood River, Oreg., to Winnipeg and Brandon, Manitoba, found to have been unreasonable. Reparation awarded.

Orange Rice Mill Co. v. *T. & N. O. R. R. Co.* (49 I. C. C., 3.)

381. Charges on imported blackstrap molasses, in tank-car loads, from New Orleans, Harvey, and Amesville, La., to Orange and Beaumont, Tex., found to have been unreasonable. Reparation awarded.

Carrollton Excelsior & Fuel Co. v. *N. O. & N. E. R. R. Co.* (49 I. C. C., 6.)

382. Defendant's rates on cordwood in carloads between points on its line in Mississippi and Louisiana justified. Complaint dismissed.

Rub-No-More Co. v. *B. & O. R. R. Co.* (49 I. C. C., 8.)

383. Charges on tallow, garbage grease, inedible grease, and stearine, in carloads from various points in Ohio, Michigan, Illinois, and New York to Fort Wayne, Ind., not shown to have been unreasonable or unduly prejudicial. Complaint dismissed,

Cordley & Hayes v. *B. & M. R. R.* (49 I. C. C., 11.)

384. Rule 26 rating applied by defendants in official classification territory on indurated fiberware, in carloads, found justified. Complaint dismissed.

Crown Willamette Paper Co. v. *W. N. Co.* (49 I. C. C., 13.)

385. Charges on dry sulphite pulp, in carloads, from West Linn, Oreg., to Boston, Mass., and New York, N. Y., and on paper pulp, in carloads, from Washington, D. C., to Portland, Oreg., found unreasonable. Reparation awarded.

Key-James Brick Co. v. *C. of Ga. Ry. Co.* (49 I. C. C., 16.)

386. Rate on brick in carloads from Chattanooga, Tenn., to Albany, Ga., not shown to have been or to be unreasonable, unjustly discriminatory, or unduly prejudicial. Complaint dismissed.

Western Art Glass Co. v. *A., T. & S. F. Ry. Co.* (49 I. C. C., 19.)

387. Rate on plate glass, in carloads, from Crystal City, Mo., to Wichita, Kans., not shown to have been unreasonable or unduly prejudicial. Complaint dismissed.

Chaney Co. v. *C., M. & St. P. Ry. Co.* (49 I. C. C., 21.)

388. Rate on cedar posts, in carloads, from Bayview, Idaho, to Hettinger, N. Dak., not shown to have been unreasonable or unduly prejudicial. Complaint dismissed.

Hubinger Bros. Co. v. *C., B. & Q. R. R. Co.* (49 I. C. C., 23.)

389. Failure of defendants to provide for the transportation from Keokuk, Iowa, to Salt Lake City, Utah, of corn sirup in jacketed cans, in mixed carloads with the same commodity in metal cans boxed and in bulk in barrels, at a rate not in excess of that applicable to mixed carloads in the two containers last mentioned, and to provide for the transportation of two carload shipments from and to the same points in one car at charges not in excess of those that would accrue if two cars were used, found unreasonable. Reparation awarded.

Mayo Milling Co. v. *C. & O. Ry. Co.* (49 I. C. C., 25.)

390. Charges on salvaged oats, in carloads, from Newport News and Richmond, Va., to Chicago, Ill., not shown to have been unreasonable or unduly prejudicial. Complaint dismissed.

Swift & Co. v. *I. C. R. R. Co.* (49 I. C. C., 27.)

391. Failure of defendants to provide for a refining-in-transit service at Memphis, Tenn., at the joint rates in connection with shipments of cottonseed oil from certain points in Arkansas, refined at Memphis and the product shipped to East St. Louis, Ill., St. Louis, Mo., and South St. Paul, Minn., not shown to have been or to be unreasonable, unjustly discriminatory, or unduly prejudicial, or to have resulted in unlawful charges. Complaint dismissed.

Wyllie China Co. v. *C. & N. W. Ry. Co.* (49 I. C. C., 29.)

392. Rate on crockery, in carloads, from Chicago, Ill., to St. Louis, Mo., found to have been unreasonable. Reparation awarded.

International Paper Co. v. *B. & M. R. R.* (49 I. C. C., 31.)

393. Rate on paper box board in less than carloads from Bellows Falls, Vt., to Leominster, Mass., found to have been unreasonable to the extent that it exceeded the aggregate of the intermediate rates. Reparation awarded.

Rapier Sugar Feed Co. v. *I. C. R. R. Co.* (49 I. C. C., 34.)

394. Reparation denied on certain tank-car loads of imported blackstrap molasses shipped from New Orleans, La., to Owensboro, Ky. Complaint dismissed.

Du Pont de Nemours Powder Co. v. *I. & G. N. Ry. Co.* (49 I. C. C., 35.)

395. Charges on nitrate of soda, in carloads, from Galveston, Tex., to Phoenixville, Ill., found to have been unreasonable and illegal. Reparation awarded.

Alcus & Co. v. *L. Ry. & N. Co.* (49 I. C. C., 37.)

396. Rate on certain carloads of rough lumber from McElroy to New Orleans, La., there milled and reshipped as box material to various interstate destinations, found to have been unreasonable to the extent that the rate to New Orleans exceeded 2½ cents per 100 pounds.

397. Rate on box material from New Orleans to Pine Bluff, Ark., found to have been unreasonable to the extent that it exceeded 14 cents per 100 pounds.

398. Reparation awarded.

Lookout Paint Mfg. Co. v. *T., A. & G. R. R. Co.* (49 I. C. C., 40.)

399. Rate on pipe blacking, in carloads, from Chattanooga, Tenn., to Dolcito Junction, Ala., not shown to have been unreasonable. Complaint dismissed.

400. Fourth section relief granted in part.

Thropp v. *B. & L. E. R. R. Co.* (49 I. C. C., 43.)

401. Rates for the transportation of iron ore, in carloads, from Buffalo, N. Y., and Erie, Pa., to Earlston and Saxton, Pa., not held to be, under the emergency conditions now existing, unreasonable or unjustly discriminatory.

402. The jurisdiction of the Commission, under the act to regulate commerce, as amended, to order the establishment of through interstate routes, and to fix joint rates applicable to such through routes, in a proper case, is not defeated by the fact that such routes are composed in part of portions of the lines of carriers wholly within one state, where the carriers whose lines constitute the through routes engage in interstate commerce and maintain local rates applicable in combination to the interstate movement of the traffic and between the points of origin and destination at issue.

403. Combination through rates on iron ore, in carloads, from Conneaut Harbor, Ohio, via Butler, Pa., to Earlston and Saxton, Pa., found unreasonable and unjustly discriminatory. The defendants required to establish and maintain reasonable joint rates over through routes for the transportation of iron ore, in carloads, from Conneaut Harbor, via Butler, to Earlston and Saxton, not to exceed those herein prescribed, with the permission that the defendants may establish the maximum rates prescribed from lake ports other than Conneaut Harbor and via other routes than those specified.

404. Reparation denied, when not asked in the complaint or by amendment thereto; and an increase in the rates pending disposition of the complaint and over complainant's protest, is not sufficient to raise an issue as to reparation.

Eastbound transcontinental sirup. (49 I. C. C., 54.)

405. Proposed cancellation of commodity rate on sirup, in carloads, from points in California to eastern defined territories found not justified.

National Wool Growers' Asso. v. *U. P. R. R. Co.* (49 I. C. C., 55.)

From western territory to eastern destinations carriers provide carload rates on wool in the grease, in bales, minimum weight 32,000 pounds per standard car of 36 feet in length, when the density of the bales is not less than 19 pounds per cubic foot. Bales of lighter density move at higher rates.

Upon a complaint attacking the density requirement, *Held:*

406. That the density requirement is not unreasonable in itself but that its strict application, requiring a higher rate where one or more bales in a carload are of less density, works unreasonable results, particularly in view of the difficulty in the accurate ascertainment of the dimensions and density of bales of wool.

407. Suggestions made for the rectification of the tariff and carriers required to submit their proposals.

Hollingshead & Blei Co. v. *K. C. S. Ry. Co.* (49 I. C. C., 62.)

408. Charges on oak barrel staves in carloads from Stilwell, Okla., to New York-N. Y., not shown to have been unreasonable. Shipment found to have been over, charged and refund directed.

Lourie Manufacturing Co. v. *C. N. R. R. Co.* (49 I. C. C., 64.)

409. Former finding that through routes should be maintained from Fetzer, Ill., over the lines of the Illinois Traction System and defendant steam roads to points on the New York Central Railroad in specified territory affirmed on rehearing.

410. Present combination rates from Fetzer to said points applicable by way of the lines of the Illinois Traction System and defendant steam roads found to be unreasonable to the extent that they exceed the rates contemporaneously in effect from Springfield, Ill., to the same points over the other lines.

Wieser & Co. v. *M., K. & T. Ry. Co.* (49 I. C. C., 69.)

411. Charges on wheat, in carloads, from Salt Fork, Okla., to Galveston, Tex., for export, stored in transit at Hico, Tex., not shown to have been unreasonable, unjustly discriminatory, or unduly prejudicial. Complaint dismissed.

Zion's Cooperative Mercantile Institution v. *C., R. I. & P. Ry. Co.* (49 I. C. C., 71.)

412. Through rates to Salt Lake City and Ogden, Utah, on cotton denims from Greensboro and Duke, N. C., and from Canton, Ga., and on cotton yarn from Albemarle, N. C., not shown to have been or to be unreasonable. Complaint dismissed.

413. Fourth section relief denied.

Laona & Northern R. R. Co. v. *C. & N. W. Ry. Co.* (49 I. C. C., 75.)

414. Complainant, a common carrier, entitled to through routes and joint rates with defendant. No basis of record for the establishment of joint rates in specific amounts.

415. The divisions which defendant may pay to complainant out of joint rates or allowances otherwise made on lumber and forest products should not exceed the maxima prescribed in *The Tap Line Case*, 31 I. C. C., 490.

416. Reparation denied, but parties authorized to effect such divisional adjustment covering interstate traffic jointly handled since January 1, 1910, subject to the limitations indicated as to lumber and forest products.

417. Case held open for paties to agree upon the establishment of through routes and joint rates and the divisions thereof, subject, as to lumber and forest products, to the limitations prescribed in *The Tap Line Case, supra.*

Carlisle Commission Co. v. *C., B. & Q. R. R. Co.* (49 I. C. C., 78.)

418. Charges on hay, in carloads, from points in Nebraska to points in Iowa, Missouri, and Illinois, reconsigned at Omaha, Nebr., or Council Bluffs, Iowa, and the tariff rule prohibiting reconsignment at the through rate after expiration of the first 120 hours from the time of the arrival of the shipments at first destination, not shown to have been unreasonable.

419. Increased charges on similar shipments which were reconsigned either within the 120-hour limitation or after its cancellation, found to have been unreasonable. Reparation awarded.

Heldmaier v. *C., I. & L. Ry. Co.* (49 I. C. C., 81.)

420. Rates on rough building stone, in carloads, from points in Indiana to Chicago, Ill., not shown to have been or to be unreasonable or unduly prejudicial.

421. Fourth section relief granted in part.

National League of Commission Merchants v. *P. R. R. Co.* (49 I. C. C., 85.)

422. Reparation awarded in the amount of drayage charges incurred because of defendant's inability, by reason of strikes, to handle produce at piers 28 and 29, New York, N. Y. Shipments intended for delivery at those piers were drayed from Jersey City, N. J., at the expense of consignees, although the freight charges paid entitled them to delivery at piers 28 and 29 without additional cost.

Meeds Lumber Co. v. *A. G. S. R. R. Co.* (49 I. C. C., 87.)

423. Rates on lumber, in carloads, from Union, Mossville, and Burnside, Miss., and Climax, Ala., to Carrollton, Ky., not shown to have been or to be unreasonable or unduly prejudicial.

424. Two shipments from Union and Mossville to Carrollton found to have been misrouted. Waiver of outstanding undercharges authorized. Complaint dismissed

Cornell Wood Products Co. v. *A., T. & S. F. Ry. Co.* (49 I. C. C., 91.)

425. Rates on "Cornell wall board," in carloads, from Cornell, Wis., to points in central freight association territory not shown to have been or to be unreasonable. Complainant not shown to have been damaged by the undue prejudice alleged. Complaint dismissed.

N. Y. & N. J. Produce Co. v. *N. Y., N. H. & H. R. R. Co.* (49 I. C. C., 93.)

426. Car detention charges at Bush Terminal, Brooklyn, N. Y., on carload shipments of potatoes from certain points in Maine found to have been illegal. Reparation awarded.

427. Combined demurrage and track-storage charges assessed at Bush Terminal on a carload shipment of potatoes in a heater car from Caribou, Me., found justified.

Parsons v. *C., B. & Q. R. R. Co.* (49 I. C. C., 96.)

428. Cancellation of western trunk line rule providing free return transportation for caretakers accompanying carload shipments of live poultry found justified as applicable prior to but not justified as applicable subsequent to January 10, 1915, on which date rating on live poultry in carloads was increased from fourth class to third class. Reparation awarded.

International Paper Co. v. *B. & M. R. R.* (49 I. C. C., 99.)

429. Rates on wood pulpboard in less than carloads from Bellows Falls, Vt., to North Dighton and Fall River, Mass., found to have been and to be unreasonable. Reparation awarded.

Morris & Co. v. *M., K. & T. Ry. Co.* (49 I. C. C., 101.)

430. Charges on a tank-car load of cottonseed soap stock from East St. Louis, Ill., to Oklahoma City, Okla., found to have been unreasonable. Reparation awarded.

Durham Coal & Iron Co. v. *C. of Ga. Ry. Co.* (49 I. C. C., 103.)

431. Through rate legally applicable on blacksmith coal, in carloads, from Durham, Ga., to Denison, Tex., found to have been unreasonable to the extent that it exceeded the lowest combination of intermediate rates contemporaneously in effect over the route of movement. Reparation awarded.

432. Fourth section relief denied.

Harmon & Co. v. *E., J. & E. Ry. Co.* (49 I. C. C., 105.)

433. Rate on iron store stool bases in barrels, in less than carloads, from North Chicago, Ill., to Tacoma, Wash., found to have been unreasonable. Reparation awarded.

Blum & Popper v. *B. & M. R. R.* (49 I. C. C., 107.)

434. Domestic storage, switching, and car service charges on six carloads of asbestos fiber shipped from Montreal, Quebec, to Boston, Mass., for export, and subsequently reshipped to and exported from New York, N. Y., found to have been legally applicable. Complaint dismissed.

Hollingshead & Blei Co. v. *K. C. S. Ry. Co.* (49 I. C. C., 109.)

435. Rate applicable on oak staves, in carloads, from Blanck, Okla., to St. Louis, Mo., reconsigned to New York, N. Y., not shown to have been unreasonable or unduly prejudicial. Shipments found to have been overcharged and reparation awarded.

Joseph Iron Co. v. *C. & L. R. R. Co.* (49 I. C. C., 111.)

436. Carload of scrap iron from Cordele, Ga., to Lebanon, Pa., found to have been overcharged. Reparation awarded.

Berthold & Jennings Lumber Co. v. *S. Ry. Co.* (49 I. C. C., 113.)

437. Charges legally applicable on yellow-pine lumber, in carloads, from Iuka, Miss., to Mascot, Tenn., based on estimated weights, not shown to have been unreasonable. Shipment found to have been overcharged and reparation awarded.

Pacific Coast Biscuit Co. v. *S. P. Co.* (49 I. C. C., 115.)

438. Charges on tin cracker boxes, in carloads, from Portland, Oreg., to Sacramento and Los Angeles, Cal., found to have been legally applicable and not shown to have been unreasonable. Complaint dismissed.

Chicago Bridge & Iron Works v. *E. R. R. Co.* (49 I. C. C., 115.)

439. Rate legally applicable on fabricated steel articles, used in the construction of a railroad water tank and tank tower, in carloads, from Greenville, Pa., to Tacoma, Wash., not shown to have been or to be unreasonable or unduly prejudicial. Complaint dismissed.

Andrea Scalvini v. *N., C. & St. L. Ry.* (49 I. C. C., 119.)

440. Charges on unmanufactured tobacco, in hogsheads, in carloads, from Paducah, Ky., and Paris and Martin, Tenn., to Nashville, Tenn., for storage, and subsequently reshipped to New Orleans, La., for export, found to have been legally applicable and not shown to have been unreasonable. Complaint dismissed.

Trexler Lumber Co. v. *N. O. & N. E. R. R.* (49 I. C. C., 121.)

441. Demurrage charges at East St. Louis, Ill., on two carloads of lumber from Orvisburg, Miss., to Madison, Ill., found to have been unlawfully assessed. Reparation awarded.

Lyon Cypress Lumber Co. v. *Y. & M. V. R. R. Co.* (49 I. C. C., 123.)

442. Rate on gum lumber, in carloads, from Garyville, La., to Chattanooga, Tenn., found to have been unreasonable. Reparation awarded.

McNeel Marble Co. v. *A. & R. R. R. Co.* (49 I. C. C., 125.)

443. Rates on marble monument bases from Marietta, Ga., to certain points in North Carolina and South Carolina found to have been legally applicable and not shown to have been or to be unreasonable. Complaint dismissed.

Scrap paper from Boston. (49 I. C. C., 128.)

444. Proposed increased rates on mill supplies, including scrap or waste paper from Boston, Mass., and certain other points on the Boston & Maine Railroad to South Windham, Me., and numerous other points on the Maine Central Railroad found justified in part and orders of suspension vacated in part.

Delaware Punch Co. v. *G., H. & S. A. Ry. Co.* (49 I. C. C., 131.)

445. *Following Coca-cola Co.* v. *A., T. & S. F. Ry. Co.*, 45 I. C. C., 461, second-class rating on Delaware punch and similar sirups, in less than carloads, from San Antonio and Fort Worth, Tex., to points in western classification territory found not justified on shipments in bulk in barrels and justified on shipments in other containers. Reasonable maximum rating on shipments in bulk in barrels prescribed for the future. Reparation denied.

McDonald Bros. v. *M. L. & T. R. R. & S. S. Co.* (49 I. C. C., 133.)

446. Rate legally applicable on relaying steel rails, in carloads, from Macland, La., to Whelen, Ark., found to have been and to be unreasonable. Reparation awarded.

Sunderland Bros. Co. v. *M. P. Ry. Co.* (49 I. C. C., 135.)

447. Rate on cement, in carloads, from Independence, Kans., to Omaha, Nebr., found justified. Complaint dismissed.

Barnes v. *D., W. & P. Ry. Co.* (49 I. C. C., 137.)

448. Minimum weight on sawdust and shavings from various points in Minnesota and Wisconsin to Chicago, Ill., and Osage, Iowa, not shown to have been unreasonable or unduly prejudicial, and present graduated minima found justified. Complaint dismissed.

Harrison v. *St. L., B. & M. Ry. Co.* (49 I. C. C., 140.)

449. Complaint attacking as unreasonable and unjustly discriminatory the proportional rate on silver and lead ore in carloads from Brownsville, Tex., to Galveston, Tex., on shipments originating at Cerralvo, Mexico, and destined to Newark, N. J., dismissed for lack of proof.

Willard Storage Battery Co. v. *N. Y. C. R. R. Co.* (49 I. C. C., 141.)

450. A less-than-carload shipment of electric storage batteries from Cleveland, Ohio, to St. Henri, Montreal, Quebec, found not to have been misrouted. Complaint dismissed.

Larrowe Milling Co v. *C. S. Co.* (49 I. C. C., 143.)

451. Charges on dried beet pulp in carloads, from Berlin, Ontario, to Augusta, Ga., found to have been illegal. Reparation awarded.

Eck Co. v. *A., T. & S. F. Ry. Co.* (49 I. C. C., 145.)

452. Rate on grapes, in lug boxes, in carloads, from Parlier, Cal., to Chicago, Ill., found to have been unreasonable to the extent that it exceeded the rate contemporaneously in effect on grapes in crates. Reparation awarded.

New England dry goods. (49 I. C. C., 147.)

453. Proposed increased commodity rates on cotton and woolen piece goods, in any quantity, from points in the New England states to New York and Brooklyn found to have been justified.

454. Proposed cancellation of any-quantity commodity rates on wholly and partially finished textiles from and to the same points found not to have been justified. So long as respondents continue to maintain commodity rates on piece goods in any quantity with milling points grouped they should not deny a similar commodity rate basis to manufacturers of wholly or partly finished textiles.

Lambert Co. v. *St. L., I. M. & S. Ry. Co.* (49 I. C. C., 157.)

455. Rates on bituminous coal, in carloads, from Mercer, Ky., to Elaine, Ark., found to have been and to be unreasonable to the extent that the component thereof from Helena, Ark., to Elaine exceeded or may exceed 50 cents per net ton. Reparation awarded.

456. Fourth section relief denied.

Beaver Valley Milling Co. v. *C., M. & St. P. Ry. Co.* (49 I. C. C., 160.)

457. Reparation on shipments of wheat in carloads from Monango, N. Dak., and Alpena, Virgil, Lane, and Scotland, S. Dak., to Des Moines, Iowa, denied.

Blackmer & Post Pipe Co. v. *M. P. Ry. Co.* (49 I. C. C., 162.)

458. Charges for reweighing at St. Louis, Mo., on scales on complainant's private switch, carloads of coal originating at points in Illinois, found to have been and to be unreasonable to the extent that they exceeded and exceed a separate charge not in excess of 50 cents per car for each weighing. Reparation awarded.

Cady Lumber Co. v. *G. & W. Ry. Co.* (49 I. C. C., 165.)

459. Demurrage charges collected on various carloads of lumber at Galveston, Tex., not shown to have been illegal or otherwise in violation of the act. Complaint dismissed.

Carey Co. v. *B. & O. R. R. Co.* (49 I. C. C., 167.)

460. Rates on asphalt shingles in carloads from Lockland, Ohio, to various interstate destinations in official classification territory not shown to have been unreasonable. Complaint dismissed.

Meyer v. *Wab. Ry. Co.* (49 I. C. C., 169.)

461. Rate on ice-cream wagons in less than carloads from Buffalo, N. Y., to Fresno, Cal., found to have been and to be unreasonable to the extent that it exceeded or may exceed the double first-class rate contemporaneously applicable from and to the same points.

Rice from Texas and Louisiana. (49 I. C. C., 172.)

462. Local rate of 18 cents per 100 pounds on clean rice, in carloads, from milling points in Arkansas to Memphis, Tenn., found on rehearing to be unreasonable to the extent that it exceeds 15 cents per 100 pounds.

Baltimore & Carolina S. S. Co. v. *A. C. L. R. R. Co.* (49 I. C. C., 176.)

463. The Commission has jurisdiction to establish through routes and maximum joint rates between defendants and the Baltimore & Carolina Steamship Co. from and to Baltimore, Md., and points in North Carolina, via Wilmington and New Bern, N. C.

464. The interested carriers may, within 30 days after the service of this report, notify us of their agreement upon joint rates between the rail lines and the steamship company from and to Baltimore and points in North Carolina, via Wilmington and New Bern, failing which we shall proceed to enter the order forecast in this report.

Lamb-Fish Lumber Co. v. *A. C. & Y. Ry. Co.* (49 I. C. C., 187.)

Upon complaint attacking as unreasonable, unjustly discriminatory, and unduly prejudicial, in violation of sections 1, 2, 3, and 4 of the act to regulate commerce, the general adjustment of rates, both class and commodity, to Charleston, Miss., from Memphis, Tenn., Ohio River crossings, points in central freight association, eastern trunk line and Virginia cities territories, and Gulf ports; and on coal from western Kentucky mines, *Held:*

465. Rates from Memphis to Charleston have not been shown to be unreasonable, unduly prejudicial, or otherwise in violation of the act.

466. Class rates to Charleston from Ohio River crossings and stations in C. F. A. territory should not exceed rates from the same points to Philipp by more than the

amounts by which rates contemporaneously maintained from Memphis to Charleston exceed those from Memphis to Philipp.

467. Defendants have failed to justify the increased class rates to Charleston from eastern trunk line and Virginia cities territories.

468. Class rates from New Orleans to Charleston found justified.

469. Rate on coal from western Kentucky mines to Charleston not shown to be unreasonable, unduly prejudicial, or otherwise in violation of the act.

470. Authority heretofore given the Yazoo & Mississippi Valley Railroad to carry lower rates from Memphis and other points north thereof to Jackson, Miss., than to intermediate points withdrawn.

Wall Rope Works v. *P. R. R. Co.* (49 I. C. C., 199.)

471. Defendant's refusal to transport in carloads certain shipments of rope from Beverly, N. J., to New York, N. Y., found to have been unlawful. Reparation awarded.

International Transportation Co. v. *N. Y. C. R. R. Co.* (49 I. C. C., 201.)

472. Defendant's practice of permitting the Ford Motor Car Co. to use its freight platform at Cleveland, Ohio, for consolidating less-than-carload lots into carload shipments while denying equal facilities to complainant, found to be unduly prejudicial.

D., L. & W. Coal Co. v. *D., L. & W. R. R. Co.* (49 I. C. C., 203.)

473. Statement in the original report, 46 I. C. C., 506, 509, to the effect that the complainant is still a subsidiary of the defendant and that the defendant has endeavored in ways lawful and unlawful to give preferences and advantages to the complainant, withdrawn in the light of the further facts adduced upon the rehearing, the findings and order in the original proceeding being in other respects affirmed.

Traffic Bureau of Knoxville v. *B. & O. R. R. Co.* (49 I. C. C., 205.)

474. Class and commodity rates on traffic moving all rail or rail and water from eastern territory to Knoxville, Tenn., not found to be unreasonable *per se* or unduly prejudicial to Knoxville in relation to rates on like traffic moving from the same territory to Cincinnati, Ohio, or Nashville, Tenn., but record held open pending the completion of other investigations of rates to southeastern points.

475. Record insufficient to justify an order requiring defendants to open an additional all-rail route for traffic from the east to Knoxville.

476. Authority granted under the fourth section to defendants to continue charging on classes and commodities from Boston, New York, Philadelphia, and Baltimore to Knoxville rates which are lower than the rates contemporaneously applicable on like traffic from Johnstown, Connellsville, Blairsville, and Williamsburg, Pa., Piedmont and Clarksburg, W. Va., and Cumberland, Md., and other intermediate points to Knoxville.

Live Poultry & Dairy Shippers' Traffic Asso. v. *A., T. & S. F. Ry. Co.* (49 I. C. C., 228.)

477. Third-class rates on live poultry, in carloads, from points of origin in western trunk line and trans-Missouri territories and in Oklahoma to destinations in those territories and east thereof found justified. Commodity rates from points in Texas to the same general destinations not shown to be unreasonable or unduly prejudicial. Complaint dismissed.

Pollak Steel Co. v. *B. & O. R. R. Co.* (49 I. C. C., 238.)

478. On complaint that class rates for the transportation of domestic shipments of billets, iron and steel articles taking billet rates, and iron and steel articles rated fourth, fifth, and sixth class in official classification, carloads and less than carloads, from Cincinnati, Ohio, and Chicago, Ill., to Boston, Mass., New York, N. Y., Philadelphia, Pa., Baltimore, Md., and points taking the same rates, are unreasonable and unduly prejudicial to the undue preference of Pittsburgh, Pa., from which point commodity rates for the transportation of the above commodities lower than class rates applicable thereto are maintained to the above destinations; *Held*, That Cincinnati, Chicago, Portsmouth, and Ironton, Ohio, and Ashland, Ky., are subjected to undue prejudice, which is required to be removed.

Iron and steel fabrication. (49 I. C. C., 248.)

479. Proposed cancellation of fabrication-in-transit arrangements at Baltimore, Md., and Washington, D. C., which would result in increased rates on structural iron and steel from points in West Virginia, Ohio, and Pennsylvania to points on or reached by way of the Southern Railway found not justified and suspended schedules required to be canceled.

Orange Rice Mill Co. v. *T. & N. O. R. R. Co.* (49 I. C. C., 250.)

480. Rate of 20 cents per 100 pounds on clean rice, carloads, from Beaumont, Tex., to New Orleans, La., not found to be unreasonable.

481. Rates on clean rice, carloads, from Beaumont and Orange, Tex., to New Orleans found to be unduly prejudicial to the extent that they exceed by more than 5 cents per 100 pounds rates contemporaneously maintained on like traffic from Lake Charles, La., to New Orleans, and the undue prejudice ordered removed. Reparation denied.

Michigan Railway Co. v. *M. C. R. R. Co.* (49 I. C. C., 255.)

482. Upon petition for the establishment of arrangements for the through ticketing of passengers and the through checking of baggage without extra charge to the passenger between Grand Rapids, Mich., and Chicago, Ill., and intermediate points, over complainant's and defendant's lines, with transfer at Kalamazoo, Mich.; *Held*, That the refusal of defendant to enter into the arrangement proposed is not shown to be unjustly discriminatory, and that the showing of public necessity or convenience for the proposed arrangement is insufficient to justify the issuance of the order requested. Complaint dismissed.

Car float service, New York harbor. (49 I. C. C., 259.)

483. Proposed increase from 6 to 12 in the minimum number of cars, or their equivalent carload minimum, for which car-float service in lieu of lighterage on lighterage free freight received at or delivered alongside piers or vessels in New York Harbor will be performed, found not to have been justified.

Du Pont De Nemours & Co. v. *M. C. R. R. Co.* (49 I. C. C., 268.)

484. Rate on wood flour, in carloads, from Newhall, Me., to Nicetown, Pa., not shown to have been or to be unreasonable. Complaint dismissed.

N. O. Cotton Exchange v. *L. & N. R. R. Co.* (49 I. C. C., 271.)

Respecting modifications in our report and order of October 1, 1917, sought by the carriers respecting rates on cotton to Ohio and Mississippi River crossings, south Atlantic ports, eastern and Virginia cities; *Held:*

485. That the report and order should be modified as to rates on indirect lines from points intermediate to interior competitive points.

486. That the report and order should be so modified as to permit changes in rates to eastern cities corresponding to changes which may be made in water rates from south Atlantic ports to said eastern cities.

487. That the list of so-called short roads should be extended to include all of the roads named in Fourth Section Order No. 7026.

488. That specific relief should be afforded as to rates from certain described points along the Tennessee River and other navigable streams.

489. That specific relief should be afforded in certain instances described in the report as to rates from interior junction points.

Dawson Produce Co. v. *A. C. L. R. R. Co.* (49 I. C. C., 291.)

490. Through rates based on the aggregate of separately established proportional commodity rates in and out of Jacksonville on green vegetables in carloads from producing points in the state of Florida to points in the state of Oklahoma, which were increased subsequent to January 1, 1910, have been justified by the defendants.

491. Reparation awarded in so far as the charges exacted exceeded the aggregate of intermediates over the same route of movement, which contravention of the fourth section of the act was not protected by any application to the Commission for relief.

C., M. & St. P. Ry. Co. v. *G. N. Ry. Co.* (49 I. C. C., 302.)

492. The Great Northern Railway by refusing to participate with the Chicago, Milwaukee & St. Paul Railway in through routes and joint fares from points on its line north of Seattle, Wash., to Omaha, Nebr., Kansas City, Mo., and points east and south thereof, with interchange facilities at Seattle, while contemporaneously participating with complainant's competitors in through routes and joint fares from and to the same points with interchange facilities at Portland, Oreg., subjects the Milwaukee to unlawful discrimination in violation of the second paragraph of section 3 of the act to regulate commerce.

493. Absorption by complainant of defendant's local fares from points north of Seattle to Seattle is unlawful and must be discontinued.

Minneapolis Traffic Asso. v. *C., B. & Q. R. R. Co.* (49 I. C. C., 308.)

494. Defendants' rule providing free time for inspection and disposition of grain received at Minneapolis on consignment not found to be unreasonable or unduly prejudicial.

Chamber of Commerce of Houston v. *S. P. Co.* (49 I. C. C., 316.)

495. Carload rate on imported peanuts, shelled, in bags or sacks, from Seattle, Wash., and San Francisco, Cal., to Houston, Tex., not shown to be unjust, unreasonable or unduly prejudicial. Complaint dismissed.

Financial relations, rates, and practices of the L. & N. R. R. Co., and other carriers. (49 I. C. C., 320.)

496. Findings of the Commission upon answers of railroad officials relative to free transportation.

McCormick & Co. v. *S. P. Co.* (49 I. C. C., 324.)

497. Complaint dismissed for failure to prosecute.

Casket Manufacturers Asso. v. *B. & O. R. R. Co.* (49 I. C. C., 327.)

498. First-class rating on wooden burial cases, in less than carloads, and double first-class rating on burial pillows, in less than carloads, or when shipped in burial cases, in official classification territory, not shown to be unreasonable.

499. First-class rating on burial case or casket trimmings, in less than carloads, found to be unreasonable and second-class rating prescribed for the future.

Virginia Portland Railway Company. (49 I. C. C., 332.)

500. The Virginia Portland Railway Company is a private facility of the Virginia Portland Cement Company, and is not a common-carrier industrial line under the test applied by the Supreme Court in the *Tap Line Cases*, 234 U. S., 1.

501. The placing of cars on the tracks within the plant inclosure designated by the industry or its industrial railroad constitutes delivery at the industry under the line-haul rate; and any allowance for the service of spotting the cars after the first placement will be unlawful.

Swift & Co. v. *M. P. Ry. Co.* (49 I. C. C., 336.)

502. Reparation awarded on shipments of ice used to preserve in transit carload shipments of meats and packing-house products from Kansas City, Kans., Kansas City, Mo., and North Fort Worth, Tex., to certain points in Mexico.

Romann & Bush Pig Iron & Coke Co. v. *C. & O. Ry. Co.* (49 I. C. C., 338.)

503. Rates on coal, in carloads, from Quinnimont, W. Va., to East St. Louis, Ill., reconsigned to Denison, Tex., and Parsons, Kans., found to have been legally applicable. Complaint dismissed.

Newman Lumber Co. v. *G. & S. I. R. R. Co.* (49 I. C. C., 340.)

504. Allowance of five days' free time for unloading carloads of lumber shipped from Sumrall, Miss., to Gulfport, Miss., for export, not shown to have been or to be unreasonable or unduly prejudicial. Complaint dismissed.

Bowie Lumber Co. v. *M. L. & T. R. R. & S. S. Co.* (49 I. C. C., 342.)

505. Rate legally applicable on hewn cypress crossties in carloads from Bowie and Des Allemands, La., to Eureka, Tex., found to have been unlawful and unreasonable. Reparation awarded.

Swaney v. *B. & O. R. R. Co.* (49 I. C. C., 345.)

506. Since July 24, 1917, the defendant carrier has refused to furnish open-top cars to wagon mines for loading with coal on its public team tracks; but continues to furnish that class of equipment to both tipple mines and wagon mines where the loading is done on private or industrial tracks. Box cars only are furnished for team-track loading.

507. Although in its nature a discrimination between shippers as a class, this practice is shown to operate in the interest of the public as a whole; and in the light of such results it is neither an unjust discrimination nor is it unduly prejudicial within the meaning of section 3 of the regulating statute.

Kansas City Hay Dealers' Asso. v. *C., R. I. & P. Ry. Co.* (49 I. C. C., 350.)

508. On hay, in carloads, from producing points on the Rock Island south and west of Kansas City, to noncompetitive points in the several rate groups north and east of Kansas City, lying between the Missouri River and the Indiana-Illinois state line, the Rock Island and its connections will be expected to establish joint rates, applicable via Kansas City, which shall not exceed the level of the rates contemporaneously maintained over other routes, including those in which the Rock Island now participates as a delivering carrier. The higher combination rates, at present in force, are shown to be prima facie unreasonable.

Hartzell v. *C., B. & Q. R. R. Co.* (49 I. C. C., 357.)

509. Rates on walnut logs, in carloads, from Monmouth, Ill., to Piqua, Ohio, found to have been and to be unreasonable. Reparation awarded.

Central Railroad Company of Indianapolis. (49 I. C. C., 359.)

510. The principles announced in the *Second Industrial Railways Case*, 34 I. C. C., 596, not found to be applicable to the Central Railroad Company of Indianapolis, and that company is dismissed as a party to this proceeding.

Lumber from Virginia points. (49 I. C. C., 361.)

511. Proposed increased rates on lumber, in carloads, from certain points in Virginia on the Southern Railway to certain eastern destinations found justified in part.

Barrett Co. v. *D., L. & W. R. R. Co.* (49 I. C. C., 363.)

512. Charges on benzol in tank-car loads, from Solvay, N. Y., to Philadelphia, Pa., for export, found to have been unreasonable prior to January 30, 1913, and illegal thereafter. Reparation awarded.

Zelnicker Supply Co. v. *M. P. Ry. Co.* (49 I. C. C., 365.)

513. Rates on mine cars and locomotives, in mixed carloads, from St. Louis, Mo., to Williston, N. Dak., not shown to have been or to be unreasonable. Complaint dismissed.

Monarch Paint Co. v. *C., B. & Q. R. R. Co.* (49 I. C. C., 367.)

514. On two carload shipments billed as refined tar, one from Chicago, Ill., to San Francisco, Cal., the other from Minneapolis, Minn., to Portland, Oreg., charges were assessed at the rate applicable to paint; *Held*, That this rate was legally applicable and that it is not shown to have been unreasonable. Complaints dismissed.

McCaull-Dinsmore Co. v. *C., B. & Q. R. R. Co.* (49 I. C. C., 369.)

515. Carload of wheat from Axtell, Nebr., to Morristown, Minn., to be milled in transit for Chicago, Ill., found to have been misrouted. Reparation awarded.

Kansas City Hay Dealers Asso. v. *C. G. W. R. R. Co.* (49 I. C. C., 372.)

516. When joint rates that are neither unreasonable nor unduly prejudicial are maintained over direct routes, adequate response is made to the reasonable requirements of the public; and the carriers should not be required to perform wasteful transportation by maintaining the same rates over indirect and more circuitous routes.

517. The defendants' refusal to join each other in establishing, over longer distances through Kansas City, the joint rates which they at present maintain over their shorter routes through St. Joseph and Omaha, on hay in carloads from producing territory in Colorado to the several rate groups lying between the Missouri River and the Indiana-Illinois state line, is not shown to be unduly prejudicial to the Kansas City hay dealers, the original shippers, or the ultimate consignees; nor are the present rates through Kansas City shown to be unreasonable.

518. The defendant carriers should nevertheless be required to establish and maintain the lower joint rates through Kansas City where the shorter route is through that gateway.

Lexington Flouring Mills v. *M. P. Ry. Co.* (49 I. C. C., 379.)

519. Refusal of the Missouri Pacific Railway Company to absorb elevation charge on grain elevated at Kansas City, Mo., and reshipped to Lexington and Sweet Springs, Mo., for milling, while such an absorption is made on grain moving to certain other points on its line, found not to be unjustly discriminatory or unduly prejudicial as to competitive points, but to be unduly prejudicial as to certain noncompetitive branch-line points.

National Asso. of Waste Material Dealers v. *N. Y. C. R. R. Co.* (49 I. C. C., 383.)

520. Fourth-class rating in official classification territory on mixed strings, in less than carloads, not shown to be unreasonable. Complaint dismissed.

Cal. Corrugated Culvert Co. v. *C., H. & D. Ry. Co.* (49 I. C. C., 385.)

521. Rate charged on corrugated sheet iron, from 12 to 16 gauge, inclusive, in carloads, from Middletown, Ohio, to certain Pacific coast points, found to have been legally applicable. Complaint dismissed.

Albany Perforated Wrapping Paper Co. v. *A. E. R. R. Co.* (49 I. C. C., 387.)

522. Rate on metal holders for toilet paper, in less than carloads, from Albany, N. Y., to south Pacific coast terminals not shown to have been or to be unreasonable or unduly prejudicial. Complaint dismissed.

Camp Logan rates. (49 I. C. C., 389.)

523. Proposed increased rates on interstate shipments resulting from the establishment within the switching limits of Houston, Tex., of a station known as Camp Logan found not justified.

Fies & Sons v. *L. & N. R. R. Co.* (49 I. C. C., 393.)

524. Rates on horses and mules, in carloads, from St. Louis, Mo., East St. Louis and National Stock Yards, Ill., to Birmingham, Ala., not shown to have been or to be unreasonable, but rates applicable over the Louisville & Nashville Railroad by way of Moran, Tenn., found unlawful. Complaint dismissed.

Pearce & Co. v. *N. & W. Ry. Co.* (49 I. C. C., 395.)

525. Upon complaint that the rates on apples, beets, cabbages, onions, potatoes, and turnips, in straight or mixed carloads, from stations in Virginia on the Norfolk & Western Railway, Abingdon to Wytheville, inclusive, to Columbia, S. C., are unreasonable, unjustly discriminatory, unduly prejudicial, and in violation of the fourth section; *Held*, That defendants have justified the reasonableness of the rates assailed but that the maintenance of rates to Columbia, higher than those contemporaneously maintained to Augusta, Ga., subjects Columbia and complainants to undue prejudice and disadvantage.

Ala. Chemical Co. v. *S. A. L. Ry. Co.* (49 I. C. C., 399.)

526. Rate on phosphate rock, in carloads, from Coronet and other points in Florida on defendants' lines to Montgomery, Ala., found justified. Complaint dismissed.

527. Fourth section relief denied.

Omaha Cooperage Co. v. *M. P. Ry. Co.* (49 I. C. C., 403.)

528. Rates on oak heading and oak staves, in carloads, from Paragould and Brinkley, Ark., to South Omaha, Nebr., found to have been unreasonable.

529. Present rate on oak heading, in carloads, from Brinkley to South Omaha found to be unreasonable and reasonable maximum rate prescribed.

530. Reparation awarded.

Sealy Mattress Co. v. *A., T. & S. F. Ry. Co.* (49 I. C. C., 405.)

531. Rates on cotton mattresses in carloads from Sugarland, Tex., to certain points in California and Oregon not shown to have been or to be unreasonable or unduly prejudicial. Complaint dismissed.

Davis Lumber Co. v. *N. P. Ry. Co.* (49 I. C. C., 407.)

532. Charges on two carloads of lumber from Doty, Wash., to Pueblo, Colo., found to have been unreasonable. Reparation awarded.

Mayfield & Graves Co. Commercial Club v. *A. & S. Ry. Co.* (49 I. C. C., 410.)

533. Rates on the first five classes between Mayfield, Ky., and points in Arkansas, Oklahoma, Louisiana, and Texas not found to be unreasonable.

534. Authority to the Illinois Central Railroad Company and its connections to continue rates on classes and commodities from Paducah, Ky., to points in southwestern tariff committee territory which are lower than the corresponding class and commodity rates from Mayfield and other intermediate points; and also to continue class and commodity rates from points in southwestern tariff committee territory to Paducah, which are lower than the corresponding rates to Mayfield and other intermediate points, denied.

Adams v. *A., B. & A. Ry. Co.* (49 I. C. C., 415.)

535. Defendants' tariff rule providing for the assessment of freight charges on weights ascertained at point of origin, or first weighing point en route, not shown to be unreasonable or unjustly discriminatory.

536. Allegation that charges on carloads of watermelons from certain points in Georgia, Florida, and Alabama to Chicago, Ill., were assessed on erroneous weights not sustained except as to three shipments which were admittedly overcharged. Refund directed and complaint dismissed.

Mayfield & Graves Co. Commercial Club v. *I. C. R. R. Co.* (49 I. C. C., 419.)

537. Rate on uncompressed cotton, in less than carloads, from Marietta, Ga., to Mayfield, Ky., through Paducah, Ky., found to have been and to be unreasonable. Reparation awarded.

Proposed increases in New England. (49 I. C. C., 421.)

Upon consideration of certain fifteenth section applications filed by New England railroads for permission to increase their class freight rates and passenger fares, *Held:*

538. That tariffs applicable to interstate traffic may be filed as follows: (*a*) Establishing class freight rates to the extent indicated in the report; (*b*) establishing local and joint one-way passenger fares based on a rate of 2¾ cents per mile on the New England lines, or portions thereof, where the one-way fares are now on a lower basis; (*c*) providing for the sale of mileage tickets at the same rate per mile as one-way tickets; or in the carriers' discretion, on a basis of one-tenth of a cent or one-eighth of a cent per mile below the regular one-way fares; (*d*) providing for the withdrawal from sale of open and unlimited trip tickets; (*e*) providing for the sale and use of 25-trip family tickets limited to three months from date of sale, on basis of 2¼ cents per mile, in instances where the continuance or establishment of such tickets is proposed in the pending applications; (*f*) establishing party fares on a basis of 2½ cents per mile; (*g*) providing for increased zone fares on the Providence, Warren & Bristol branch of the New York, New Haven & Hartford Railroad as proposed, subject to further consideration as indicated in the report.

539. Proposed increased class freight rates by the Bangor & Aroostook Railroad and the Canadian Pacific Railway found not to have been justified.

Bartlett-Collins Glass Co. v. *St. L. & S. F. Ry. Co.* (49 I. C. C., 488.)

540. Rates on sand, in carloads, from Ottawa and Utica, Ill., to Sapulpa, Okla., found to have been and to be unreasonable. Reparation awarded.

American Refining Co. v. *A., T. & S. F. Ry. Co.* (49 I. C. C., 491.)

541. Rates legally applicable on gas oil, in carloads, from Okmulgee, Okla., to Newton, Kans., found to have been unreasonable. Reparation awarded.

Sugar from New Orleans. (49 I. C. C., 494.)

542. Proposed increased commodity rates on sugar, in carloads, from New Orleans, La., to destinations in Alabama, more than 360 miles distant, and to points in Georgia, Tennessee, and Kentucky, found to have been justified and orders of suspension vacated.

Acid between Illinois points. (49 I. C. C., 498.)

543. Proposed increased rates on acid, in tank-car loads, between Illinois producing points, on the one hand, and Chicago, Ill., and Chicago rate points, St. Louis, Mo., and Milwaukee, Wis., on the other, found justified. Order of suspension vacated and the fifteenth section application granted.

Allentown Portland Cement Co. v. *B. & O. R. R. Co.* (49 I. C. C., 502.)

Upon complaints bringing into issue the reasonableness of the rates on cement in carloads from Troy, N. Y., to stations on the Boston & Maine Railroad in New England, as well as the propriety of the relationship between the rates from the Hudson cement district in the state of New York, from the Lehigh district in the state of Pennsylvania, and from Universal, Pa., to stations on the Boston & Maine Railroad, Maine Central Railroad, Montpelier & Wells River Railroad, and St. Johnsbury & Lake Champlain Railroad; and upon investigation on the Commission's own motion into the reasonableness of the rates from points in the Hudson district to stations on the lines named, *Held:*

544. The rates on cement in carloads from Troy, N. Y., to stations on the Boston & Maine Railroad are unreasonable to the extent that they exceed those shown in the distance scale prescribed herein.

545. The rates from points in the Hudson district as a whole to stations on the lines named are not shown to be unreasonable.

546. The rates from the Lehigh district to points on the lines named are not shown to be unreasonable, or to be unduly prejudicial as compared with the rates from the Hudson district to the same points.

547. The rates from the Lehigh district to stations on the lines named are unduly prejudicial as compared with the rates from Universal, Pa., to the same stations, which should exceed the rates from the Lehigh district by at least 85 cents per net ton.

548. Certain fourth section applications whereby the carriers parties thereto seek authority to continue to charge lower rates from the Hudson and Lehigh districts to alleged water-competitive points in New England than the rates contemporaneously in effect to intermediate points, denied.

Mayfield & Graves Co. Commercial Club v. *I. C. R. R. Co.* (49 I. C. C., 521.)

549. Rate on unmanufactured tobacco from Mayfield, Ky., to New Orleans, La., found to be reasonable.

550. Defendant authorized to continue rates on unmanufactured tobacco from Paducah to New Orleans lower than the rates contemporaneously maintained from Mayfield and other intermediate points.

Potatoes from Kansas points. (49 I. C. C., 525.)

551. Proposed cancellation of the application of joint class C rates on potatoes, in carloads, from certain stations on the Union Pacific Railroad to various points in southeastern Kansas and southern Missouri, found not justified.

Camp Bowie rates. (49 I. C. C., 528.)

552. Proposed increased class and commodity rates from western defined territory to Camp Bowie, Tex., found not justified and suspended schedules ordered canceled.

Brunswick-Balke-Collender Co. v. *P. M. R. R. Co.* (49 I. C. C., 530.)

553. Charges on a carload of billiard tables, k. d., from Muskegon, Mich., to Mexico City, Mexico, diverted to Los Angeles, Cal., not shown to have been unreasonable or otherwise unlawful, with the exception of a $5 charge for unloading and reloading at Laredo, Tex., which was illegal. Refund directed and complaint dismissed.

Morava Construction Co. v. *A., T. & S. F. Ry. Co.* (49 I. C. C., 534.)

554. Rates on structural iron and steel, in carloads, from Chicago, Ill., to Pasadena, Cal., found to have been unreasonable. Defendants authorized to waive collection of certain undercharges. Reasonable rates prescribed.

Delaware River Steel Co. v. *P. & R. Ry. Co.* (49 I. C. C., 537.)

555. Demurrage charges assessed at Chester, Pa., on certain interstate shipments of various commodities, in carloads, found to have been legally applicable. Complaint dismissed.

Morgantown & Kingwood Divisions. (49 I. C. C., 540.)

556. Upon further examination of all the provisions of the act to regulate commerce, as amended, *Held*, That the Commission upon a complaint by one carrier against another may lawfully determine the division or compensation that each is entitled to receive out of their voluntarily established joint rates in effect over a through route operated by the two carriers. Conclusions announced in the original report herein, 40 I. C. C., 509, reversed.

Huron Milling Co. v. *P. M. R. R. Co.* (49 I. C. C., 558.)

557. Upon complaint that the refusal of the Pere Marquette Railroad Company to switch certain interstate carload shipments between its yards and points in complainant's plant at Harbor Beach, Mich., or to make complainant an allowance for the performance of such service, was unreasonable and unjustly discriminatory, *Held*, That the refusal of the carrier named, between July 11, 1914, and December 20, 1915, inclusive, to make to complainant an allowance of 75 cents per car for its service in switching certain interstste carload shipments between loading and unloading points in complainant's plant and defendant's yard at Harbor Beach, and of 45 cents per car for switching cars to and from unloading and loading places at the same plant, was unreasonable. Reparation awarded.

Hogan & West v. *G. N. Ry. Co.* (49 I. C. C., 564.)

558. Rate on pine lumber, in carloads, from Springston, Idaho, to Powers Lake, N. Dak., found to be unreasonable to the extent that it exceeds by more than 2 cents per 100 pounds the rate contemporaneously in effect from Spokane, Wash., to the same destination.

National Confectioners' Asso. v. *A. & R. R. R. Co.* (49 I. C. C., 566.)

559. Less-than-carload ratings on shipments of candy and confectionery; stick licorice and licorice confections, chocolate, chocolate coating, candy cough drops or tablets, medicated, and chewing gum, not found to have been unreasonable, unjustly discriminatory, or unduly prejudicial. Complaint dismissed.

Schaefer & Son v. *L. I. R. R. Co.* (49 I. C. C., 580.)

560. Demurrage and track-storage rules applicable at Bushwick, Brooklyn, N. Y., for the detention of cars subject to the average demurrage agreement found to have been properly applied and not shown to have been or to be unreasonable. Complaint dismissed.

Good v. *C., M. & St. P. Ry. Co.* (49 I. C. C., 583.)

561. Rates on lumber, in carloads, from Springdale, Wash., to Ringling and White Sulphur, Mont., found to be unreasonable.

Rockford Paper Box Board Co. v. *C., M. & St. P. Ry. Co.* (49 I. C. C., 586.)

562. Charges on rock board, in carloads, from Rockford, Ill., to Kansas City, Mo., and Minneapolis, Minn., not shown to have been unreasonable. Complainant not shown to have been damaged by the undue prejudice alleged. Complaint dismissed.

Swastika Fuel Co. v. *A., T. & S. F. Ry. Co.* (49 I. C. C., 588.)

563. Defendants' failure to provide for the assessment of charges on coke, in carloads, from Gardiner, N. Mex., to Kennett, Cal., loaded to full space or visible capacity of the cars, upon the actual weight, but not less than 30,000 pounds, found to have been and to be unreasonable. Reparation awarded.

Illinois Brick Co. v. *C. & E. I. R. R. Co.* (49 I. C. C., 590.)

564. Rate of 22.1 cents per 100 pounds for the transportation of fuel oil in tank-car loads from group 3 producing points in Oklahoma to Bernice and Lansing, Ill., points just outside the Chicago switching district as defined in the Lowrey tariff, held to be unreasonable to the extent that it exceeds 20 cents, which is the rate now applicable on the same traffic to Chicago and points in Illinois and Indiana in the general vicinity of Chicago. Same finding made as to former rate of 25 cents. Reparation awarded on shipments made under both rates.

565. Complainant held to be the party entitled to reparation when it appears that under a contract of sale provision the consignor was to absorb only the rate to Chicago, which was less than to Bernice and Lansing.

Cement to Iowa points. (49 I. C. C., 595.)

566. Proposed increased rates on cement, in carloads, from the Kansas gas belt to destinations in Iowa and southeastern Minnesota, found not justified. The suspended schedules ordered canceled.

Cement to Montana. (49 I. C. C., 597.)

567. Proposed increased rates on cement from Ada, Okla., from points in the Kansas gas belt and from Mason City, Iowa, and other points to certain destinations upon the Chicago, Burlington & Quincy Railroad in South Dakota, Wyoming, and Montana found not justified; respondents ordered to establish distance rates not in excess of those prescribed in *Western Cement Rates*, 48 I. C. C., 201, and *Cement to Montana*, 48 I. C. C., 402.

Victor Chemical Works v. *C. & E. I. R. R. Co.* (49 I. C. C., 599.)

568. Rates on phosphate of lime, in carloads and less than carloads, from Chicago Heights, Ill., to Quincy, Mich., not shown to have been unreasonable. Complaint dismissed.

Inman-Poulsen Lumber Co. v. *S. P. Co.* (49 I. C. C., 600.)

569. Claim for reparation on numerous carloads of fir and hemlock lumber and lath from Portland, Oreg., to certain California destinations, based upon *Inman-Poulsen Lumber Co.* v. *Southern Pacific Company*, 42 I. C. C., 275, denied. Complaint dismissed.

Kansas Flour Mills Co. v. *M. V. R. R. Co.* (49 I. C. C., 602.)

570. Rates on grain and grain products from Belle Plaine, Oxford, Adamsville, and Arkansas City, Kans., to Wann, Okla., and Coffeyville, Kans., found to have been unreasonable and unduly prejudicial. Reparation awarded.

571. Fourth section relief denied.

Marsh & Truman Lumber Co. v. *L. & N. R. R. Co.* (49 I. C. C., 605.)

572. Rates charged on oak lumber, in carloads, from Leinart and Byington, Tenn., to London, Ontario, found to have been legally applicable and justified. Complaints dismissed.

Iola Cement Mills Traffic Asso. v. *A., T. & S. F. Ry. Co.* (49 I. C. C., 609.)

573. Rates on cement, in carloads, from Independence, Chanute, and Humboldt, Kans., to certain points in Kansas, over an interstate route, not shown to have been unreasonable or unduly prejudicial. Complaint dismissed.

Van Benthuysen Lumber & Tie Co. v. *G. & S. I. R. R. Co.* (49 I. C. C., 611.)

574. Complaint attacking as illegal the charges on crossties, in carloads, from certain points in Mississippi to Gulfport, Miss., there stored and subsequently forwarded to certain points in New York, dismissed.

Crown Willamette Paper Co. v. *A., T. & S. F. Ry. Co.* (49 I. C. C., 613.)

575. Charges for switching at Los Angeles, Cal., carload shipments originating at Camas, Wash., and West Linn, Oreg., not shown to have been unreasonable or unduly prejudicial.

576. Tariff rule of the Southern Pacific Company defining "competitive traffic" not shown to have been or to be unreasonable. Complaint dismissed.

Merchants Basket & Box Co. v. *St. L. S. W. Ry. Co.* (49 I. C. C., 615.)

577. Rate on a less-than-carload shipment of baskets from St. Louis, Mo., to Magnolia, Ark., not shown to have been or to be unreasonable. Complaint dismissed.

Morris & Co. v. *St. L. & S. F. R. R. Co.* (49 I. C. C., 617.)

578. Rate on peanut oil, in tank-car loads, from Boswell, Okla., to Chicago, Ill., found to have been unreasonable. Reparation awarded.

Graham v. *A., T. & S. F. Ry. Co.* (49 I. C. C., 619.)

579. Claim for reparation not presented formally within six months after the date of the Commission's letter of notification that the claim could not be adjusted informally, or within the statutory period of limitations of two years, found to have been abandoned. Complaint dismissed.

Aetna Explosives Co. v. *S. Ry. Co.* (49 I. C. C., 620.)

580. Charges on sulphuric acid, in tank-car loads, from Hampton, Ga., to Greensboro, N. C., found to have been unreasonable. Reparation awarded.

Newport News Shipbuilding & Dry Dock Co. v. *P. R. R. Co.* (49 I. C. C., 622.)

581. The rate on iron and steel articles, in carloads, from Pittsburgh, Pa., to Newport News, Va., not found to be unreasonable. This rate, however, subjects complainant to undue prejudice and disadvantage as compared with certain lower rates on the same articles to New York, N. Y., and Baltimore, Md. No reparation allowed.

Neola Elevator Co. v. *M. P. Ry. Co.* (49 I. C. C.,629.)

582. Charges for out of line movement between Conway Springs and Wichita, Kans., on wheat, in carloads, from Kiowa and other points in Kansas, reconsigned at Wichita, milled at Winfield, Kans., and forwarded to Galveston, Tex., for export, found to have been illegal. Reparation awarded.

Natchez Chamber of Commerce v. *Y. & M. V. R. R. Co.* (49 I. C. C., 631.)

583. Natchez, Miss., filed a complaint against the rates on class and commodity traffic, moving all rail and ocean and rail via south Atlantic ports and via New Orleans, La., from north Atlantic seaboard cities and points taking same rates to Natchez, as compared with the rates to Memphis, Tenn., and New Orleans. It appearing that complainant has no interest in the all-rail rates and the ocean-and-rail rates via south Atlantic ports, and no complaint against the level of the rates *per se* via any route, and that since the complaint was filed the adjustment of the ocean-and-rail rates to Natchez and the all-water rates to New Orleans has been changed to the satisfaction of complainant, the complaint is dismissed without prejudice.

584. Portions of fourth section applications denied.

Crown Willamette Paper Co. v. *S., P. & S. Ry. Co.* (49 I. C. C., 635.)

585. The complaint alleged that the rates on paper in carloads from Camas, Wash., to points in Montana, as compared with other rates on the same commodity, are unreasonable and subject complainant to undue prejudice. At the hearing complainant's main reliance was placed upon certain computations based upon distance. There was no showing made that the rates are unreasonable or that complainant is subjected to undue prejudice. Complaint dismissed.

Hormel & Co. v. *C. G. W. R. R. Co.* (49 I. C. C., 639.)

586. The finding made in *Hormel & Co.* v. *C. G. W. R. R. Co.*, 43 I. C. C., 23, also made here, upon a new complaint, with respect to the period from the date of the submission of that case to the effective date of the order therein.

Cooper Grocery Co. v. *M. L. & T. R. R. & S. S. Co.* (49 I. C. C., 641.)

587. Rates on salt, in carloads, from Avery, Salt Mine, and Weeks, La., to Waco, Tex., found unreasonable. Proceedings held open for further proof with a view to the issuance of orders of reparation.

Tulsa Traffic Asso. v. *St. L.-S. F. Ry. Co.* (49 I. C. C., 644.)

588. The regulating statute lays a duty upon the carriers to furnish team-track and other terminal services only to an extent that is fully responsive to the reasonable

requirements of the public; and this duty is neither subordinate to nor modified by the closing clause of section 3, which protects the carriers against the use of their terminals by others engaged in like business.

589. At Tulsa, Okla., the location of commercial industries, the physical layout of the terminal tracks, the area of the terminal service, the volume of traffic, and the reasonable requirements of the public are not at this time such as will justify compelling the defendant to open its team tracks to traffic brought to and taken from that point by other lines of railway.

Blackman & Griffin Co. v. *A., C. & Y. Ry. Co.* (49 I. C. C., 649.)

590. Charges collected on commodities which moved from eastern defined territories to Utah common points between September 18 and November 15, 1914, found unjust and unreasonable. Reparation awarded.

Fox's Sons v. *B. & A. R. R. Co.* (49 I. C. C., 656.)

591. Rates on South American and Australian imported wool in the grease, in machine-pressed bales, in carloads, from Boston, Mass., and New York, N. Y., to La Porte, Ind., found to have been and to be unreasonable. Reasonable maximum rates prescribed and reparation awarded.

Babcock Bros. Lumber Co. v. *G., F. & A. Ry. Co.* (49 I. C. C., 661.)

592. Refusal of the Georgia, Florida & Alabama Railway Company to make an allowance for services performed by the Babcock, Georgia & Alabama found not to have been or to be unreasonable or unduly prejudicial. Complaint dismissed.

Sunderland Bros. Co. v. *A., T. & S. F. Ry. Co.* (49 I. C. C., 665.)

593. Present rates on brick, in carloads, from points in the Kansas gas belt to various destinations in Iowa not shown to be unreasonable.

594. Rate charged on brick, in carloads, from Buffville, Kans., to Glenwood, Iowa, found to have been unreasonable and reparation awarded.

595. Fourth section relief denied.

Stuart & Co. v. *A., B. & A. Ry. Co.* (49 I. C. C., 668.)

596. Estimated weight of 120 pounds per standard barrel crate of cabbage applicable from points on defendants' lines in Florida to Atlanta and Macon, Ga., not shown to have been or to be unreasonable or unjustly discriminatory. Complaints dismissed.

Mecker v. *P. R. R. Co.* (49 I. C. C. 673).

597. Defendant's rules with respect to notification of arrival of shipments of anthracite coal at South Amboy, N. J., for transshipment by water not found to be unreasonable. Complaint dismissed.

Woolf Milling Co. v. *B. & O. R. R. Co.* (49 I. C. C., 678.)

598. Following *Jefferson Milling Co.* v. *B. & O. R. R. Co.*, 31 I. C. C., 547, switching charge of 4.2 cents per 100 pounds for switching certain shipments at Keyser, W. Va., between industries located on the rails of the Baltimore & Ohio Railroad and the point of interchange of the Baltimore & Ohio Railroad with the Western Maryland Railway, found to be unreasonable and a reasonable maximum charge of 2 cents per 100 pounds, minimum $5 per car, prescribed.

State of Maryland v. *B., C. & A. Ry. Co.* (49 I. C. C., 681.)

599. Interstate rates on crushed stone in carloads from Birdsboro and Devault, Pa., and from Port Deposit, Md., to points on the eastern shore of Maryland, and rates on the same commodity from Birdsboro to points on defendants' lines in the states of New York, New Jersey, Delaware, Maryland, Virginia, and the District of Columbia, shown to be unreasonable to the extent that they exceed the rates prescribed herein. Reparation denied.

Hartzell v. *C., C., C. & St. L. Ry. Co.* (49 I. C. C., 691.)

600. Rate on walnut logs in carloads, from Mahomet, Ill., to Piqua, Ohio, not shown to have been or to be unreasonable. Complaint dismissed.

601. Fourth section relief denied.

Hood & Sons v. *B. & M. R. R.* (49 I. C. C., 694.)

602. Establishment and maintenance by the Boston & Maine Railroad of a station at Roland street, Somerville, Mass., for the delivery of less-than-carload shipments of milk consigned to Boston, Mass., and the refusal of the carrier to continue to make deliveries of such shipments at complainant's plant in Boston, not found to be unreasonable, unjustly discriminatory, or unduly prejudicial.

603. Refusal of Boston & Maine to provide a ferry-car service for milk, cream, and other dairy products at Boston, and the charge of $3 per car for such service at other points on its line, found justified.

604. Cancellation of transit arrangements on milk, cream, and other dairy products found not justified.

605. Carload minimum of 8,925 quarts of milk or cream not found to be unreasonable.

606. Rule providing that iced-car rates will be charged on carload shipments of milk, cream, and other dairy products in baggage cars when iced-car service is provided in the same train, found to be ambiguous and its amendment directed.

Natchez Chamber of Commerce v. *Y. & M. V. R. R. Co.* (49 I. C. C., 700.)

607. Class rates for interstate transportation from Natchez, Miss., to certain points on defendant's line in Louisiana and to Woodville, Miss., not shown to be unreasonable, but class rates from Natchez held to subject complainant to undue prejudice in so far as they exceed the class rates from New Orleans to the points involved by more than is indicated in the report.

Randolph Fruit Co. v. *S. P. Co.* (49 I. C. C., 707.)

608. Charges on a mixed carload of oranges and lemons from Lordsburg, Cal., to Everett, Wash., found to have been unreasonable. Reparation awarded.

Kalamazoo Tank & Silo Co. v. *C., C., C. & St. L. Ry. Co.* (49 I. C. C., 709.)

609. Rates legally applicable on hollow building tile, in carloads, from Carbon, Ind., to Delafield, Dahlgren, and Brooklyn, Ill., not shown to be unlawful except in so far as they depart from the provisions of the fourth section of the act. Complainant not shown to have been damaged by reason of the maintenance of lower rates to more distant points, and complaint dismissed.

610. Fourth section relief granted in part.

Business Men's League of St. Louis v. *A., T. & S. F. Ry. Co.* (49 I. C. C., 713.)

611. Record reconsidered; findings made more specific and order of October 17, 1916, modified.

612. Interstate fares between points designated found unreasonable to the extent they exceed basis of 2.4 cents per mile. Carriers required to remove undue prejudice found to exist.

White, Pevey & Dexter v. *C., R. I. & P. Ry. Co.* (49 I. C. C., 717.)

613. Rates charged by defendants for the transportation of complainant's shipments of cattle, sheep, and hogs, in carloads, during the period from June 3, 1915, to October 15, 1915, not found to have been unreasonable. Complaint dismissed.

Hannah Distributing Co. v. *M., K. & T. Ry. Co. of Texas.* (49 I. C. C., 720.)

614. On complaint that the through rates on grain and grain products to Jackson, Miss., from points in the state of Texas, are unreasonable and unduly prejudicial; *Held*, That the defendants have justified the through rates, and that it is not shown that the adjustment of rates is unduly prejudicial.

Coal from Arkansas and other States. (49 I. C. C., 727.)

615. Intended as measures to prevent delay to their own cars, to relieve congestion, and to increase their revenues through a greater utilization of their own equipment, the respondents undertook to cancel the present joint rates applying on coal, carloads, from mines on their lines, without giving any consideration to the reasonableness of the increased combination rates that would remain in force; *Held*, That the failure to justify the increased rates warrants denial of the fifteenth section applications, and cancellation of the tariff schedules here under suspension.

Merrell-Soule Co. v. *B. & O. R. R. Co.* (49 I. C. C., 733.)

616. Official classification ratings of third and fourth class for less-than-carload and carload shipments of powdered milk in boxes or barrels, in bulk, not shown to be unreasonable or unduly preferential.

617. No warrant shown upon the record for an order requiring carriers in official classification territory to publish their class ratings on liquid evaporated and condensed milk in barrels, in bulk, in the official classification itself instead of in exceptions to the classification.

N., C. & St. L. Ry. boats and barges. (49 I. C. C., 737.)

618. Upon investigation on the Commission's own motion; *Held*, That within the meaning of the Panama Canal act, the Nashville, Chattanooga & St. Louis Railway neither does nor may compete for traffic with the boats and barges it operates on the Tennessee River between Hobbs Island and Guntersville.

Magnolia Cotton Oil Co. v. *A., T. & S. F. Ry. Co.* (49 I. C. C., 739.)

619. Rates on lard substitutes, in carloads, from Houston, Tex., to destinations in Oklahoma in effect prior to July 1, 1917, found unreasonable in, and to the extent, that they exceeded the distance scale basis of rates found to be reasonable on packing-house products between points in Texas and points in Oklahoma in the *Oklahoma Case*, 22 I. C. C., 160. Reparation awarded.

Fogarty & Sons v. *N. Y., N. H. & H. R. R. Co.* (49 I. C. C., 744.)

620. Rates for the transportation of anthracite coal in carloads from the Lehigh, Schuylkill, and Wyoming regions in Pennsylvania to Olneyville, within the corporate limits of Providence, R. I., not shown to have been or to be unreasonable or unjustly discriminatory under section 2, but the general adjustment of rates on that commodity to points of delivery in the city of Providence and destinations beyond found unduly prejudicial to complainants. Reparation denied.

621. Fourth section application for authority to maintain lower rates on anthracite coal to Darlington, within the corporate limits of Pawtucket, than to intermediate points found not justified, and relief from the long-and-short-haul rule denied.

622. Complaint assailing the rates on anthracite coal in carloads from the producing regions named to Campbell Hall, N. Y., dismissed.

Cotton from New Orleans. (49 I. C. C., 751.)

623. Proposed cancellation of proportional rates on cotton, and articles taking the same rates, from New Orleans to New York found justified, except for certain maladjustments which would result. Respondent directed to cancel the suspended schedules without prejudice to its right to establish rates on short notice, with such modifications as are indicated in the report.

624. Effective port-to-port rates on cotton and articles taking the same rates from New Orleans to New York not shown to be unreasonable or otherwise unlawful.

Bituminous coal rates to the southeast. (50 I. C. C., 1.)

625. Upon the petition of the Cotton Manufacturers' Association of North Carolina, intervener, for a modification of the finding made in our original report herein; *Held*, That the facts submitted on rehearing do not justify the proposed change in the rate groupings or the placing of Charlotte, N. C., in a lower rate group. Petition dismissed.

Terrell Commercial Club v. *T. & P. Ry. Co.* (50 I. C. C., 6.)

For the purpose of making rates on grain, grain products, and hay from points in Kansas and Oklahoma, destinations in the state of Texas are arranged in three main groups, known as groups 1, 2, and 3. A fourth group, known as group A, has been carved out of group 1 and rates to points in group A apply only from points in Oklahoma. Group A is a result of the Commission's decision in *Mitchell* v. *A., T. & S. F. Ry. Co.*, 12 I. C. C., 324, and broadly described, includes only Fort Worth, Dallas, and points north thereof between Wichita Falls on the west and Greenville on the east, to the Oklahoma-Texas state line. Upon a complaint which alleged that the rates on grain, grain products, and hay from points in Oklahoma, to Terrell, Tex., in group 1, are unreasonable and subject Terrell to undue prejudice and disadvantage, as compared with rates from the same points of origin to Dallas, Greenville, and other points in group A, *Held:*

626. The rates on grain and grain products and hay, in carloads, from points in Oklahoma to Terrell are not shown to be unjust or unreasonable.

627. The general adjustment of rates on grain and grain products from points in Oklahoma to Dallas, Greenville, and other points in Texas, substantially north or west of Terrell, and to Terrell, does not subject Terrell to undue prejudice and disadvantage.

628. Terrell is not entitled to be included in group A.

629. Rates on grain, grain products, and hay from points in Oklahoma to Terrell, compared with the rates on the same commodities from the same points to Dallas, Greenville, and other similarly situated points in Texas, do subject Terrell to undue prejudice and disadvantage in and to the extent that they exceed the rates on those commodities to group A points by more than 2.5 cents per 100 pounds.

630. The defendants should correct the adjustment of rates on grain, grain products, and hay as between Dallas, Greenville, and Terrell.

Sisal from New Orleans. (50 I. C. C., 13.)

631. Proposed increases in domestic rates for the transportation of sisal, carloads, from New Orleans and Port Chalmette, La., to destinations in the states of Kansas, Missouri, Iowa, Minnesota, Wisconsin, South Dakota, and North Dakota found to have been justified.

Toledo switching absorption. (50 I. C. C., 18.)

632. A tariff provision that authorizes the absorption of foreign line charges for switching transit grain and grain products to and from elevators and mills at the transit points can not be interpreted as meaning that any part of the charges contemporaneously maintained for intracity switching between elevators and mills at the same point shall also be absorbed.

633. The tariff provision here under suspension, in the form that the respondent has agreed to modify it, is merely a more definite expression of the rule at present in force; and since it is not shown to be either unreasonable or unduly prejudicial, it should be permitted to become effective.

Ky. Lumber Co. v. *St. L.-S. F. Ry. Co.* (50 I. C. C., 22.)

634. Rates on gum lumber, in carloads, from Sulligent, Ala., to certain points in Michigan, Wisconsin, and Indiana not shown to have been unreasonable. Complainant not shown to have been damaged by alleged undue prejudice and complaint dismissed.

Express charges on empty fish cars. (50 I. C. C., 24.)

635. Proposed increased rate for the interstate movement of empty fish cars and withdrawal of free transportation of attendants accompanying empty fish cars found justified.

Delaware Punch Co. v. *A., T. & S. F. Ry. Co.* (50 I. C. C., 29.)

636. Rates on Delaware punch sirup, in carloads, from San Antonio, Tex., to Pacific coast terminals and points intermediate thereto not shown to have been unreasonable. Complaint dismissed.

Buckeye Cotton Oil Co. v. *G., M. & N. Ry. Co.* (50 I. C. C., 32.)

637. Rates on blackstrap molasses from Mobile, Ala., to Memphis, Tenn., found to be unlawful.

638. Defendants authorized to publish and maintain rates on blackstrap molasses, in carloads, from Mobile to Memphis dependent upon declared or released value, under the provisions of the Cummins amendment of August 9, 1916.

Royster Guano Co. v. *A. C. L. R. R. Co.* (50 I. C. C., 34.)

639. Reasonable distance rates and carload minimum prescribed as maxima for transportation of commercial fertilizer from Norfolk, Va., to points in North Carolina on defendants' lines.

640. In maintaining and applying to carload shipments of commercial fertilizer from Norfolk to points on their lines in North Carolina higher rates than to similar shipments for like distances between points in North Carolina, defendants are subjecting the city of Norfolk, manufacturers of commercial fertilizer at that point, and shippers thereof from that city into North Carolina to undue and unreasonable prejudice and disadvantage, and giving to localities in North Carolina where commercial fertilizer is manufactured, the manufacturers at such points, and shippers thereof between points in that state, an undue and unreasonable preference and advantage in violation of section 3 of the act to regulate commerce.

Decker & Sons v. *B. & O. R. R. Co.* (50 I. C. C., 47.)

641. Proposed application of higher rates on salted hog meats in packages than are applied to the same commodities in bulk found unreasonable and not in accord with tariff provisions.

Silk Asso. of America v. *P. R. R. Co.* (50 I. C. C., 50.)

642. The second Cummins amendment placed rates and ratings dependent upon the value "declared in writing by the shipper" and those predicated on the value "agreed upon in writing as the released value of the property" in the same category; such rates and ratings are unlawful unless and until expressly authorized by the Commission. *Express Rates, Practices, Accounts, and Revenues*, 43 I. C. C., 510; *Live Stock Classification*, 47 I. C. C., 335; *Williams Co.* v. *H. C. N. Y. T. Co.*, 48 I. C. C., 269, reaffirmed and followed.

643. The decision in *Silk Association of America* v. *P. R. R. Co.*, 44 I. C. C., 578, in which the official classification ratings of first class and one and one-half times first class on silk valued at $1 per pound or less and in excess of $1 per pound, respectively, stated in writing by the shipper, were justified and approved, furnished lines in official classification territory with express authority to maintain such ratings within the meaning of the second Cummins amendment.

644. The present complaint, petitioning the Commission to require lines in official classification territory to establish and maintain ratings on silk predicated on the

value agreed upon in writing as the released value. is dismissed on the ground that the present official classification ratings on silk, under the foregoing express authority given defendants to maintain the same, are tantamount to the alternative and optional ratings prayed for.

L. & N. R. R. coal and coke rates. (50 I. C. C., 54.)

645. The divisions under rates prescribed on coal and coke from the Appalachia and St. Charles districts in Virginia to points north of the Ohio River found to be just and reasonable as between the Louisvillle & Nashville Railroad Company and its connections north of the Ohio.

646. Reasonable divisions to the Interstate Railroad out of the joint through rates prescribed from the Appalachia district to points north of the Ohio River found to be 15 cents per ton on coal and 18 cents per ton on coke.

Eastern Shore of Va. Produce Exch. v. *W. M. Ry. Co.* (50 I. C. C., 60.)

647. Through routes and joint rates, from wharves in Northampton and Accomac counties, Va., by steamboat to Baltimore, Md., and thence via the Western Maryland Railway and its connections to points served by them, should be established.

Eastbound transcontinental canned goods. (50 I. C. C., 62.)

648. Proposed change in the description of the articles now transportable under a commodity item providing for the movement of canned goods and preserves from California terminals and intermediate points taking the same rates, to eastern defined territory, i. e., from the Missouri River to the Atlantic seaboard, and other eastern destination points, whereby dried, evaporated, or fresh fruits or raisins, and dried, evaporated, or pickled vegetables, in glass, earthenware, or metal cans, are to be excluded from the application of the rates provided thereunder and other and higher commodity rates now applicable to the transportation in wooden containers of the same commodities similarly processed and not different in character, are to be imposed, found to have been justified.

W. Va. Rail Co. v. *C. & O. Ry. Co.* (50 I. C. C., 69.)

649. Rate on steel rails, in carloads, from Huntington. W. Va., to Cleveland, Ohio, found not to be unreasonable or unduly preferential of Newark, Ohio, Buffalo, N. Y., or Johnstown or Pittsburgh, Pa. Complainant not shown to have been damaged by the alleged undue preference of Cumberland, Md., and complaint dismissed.

Wilke v. *C. & A. R. R. Co.* (50 I. C. C., 73.)

650. Charges on horses and mules, in carloads, from Grand Island, Nebr., and Kansas City, Mo., to Montgomery, Ala., found to have been unlawful. Reparation awarded.

International Paper Co. v. *D. & H. Co.* (50 I. C. C., 75.)

651. Rate on wrapping paper, in carloads, from Fort Edward, N. Y., to North Tonawanda, N. Y., by way of Sayre, Pa., not shown to have been unreasonable. Complaint dismissed.

Trexler Lumber Co. v. *A. C. L. R. R. Co.* (50 I. C. C., 77.)

652. Allegation that charges on a carload of yellow-pine lumber from Allen, S. C., to Franklin, N. J., were assessed on an excessive weight not sustained. Complaint dismissed.

Nebraska-Colorado grain. (50 I. C. C., 79.)

653. Proposed increased rates on grain, in carloads, from Sioux City, Iowa, and certain points in Nebraska north of Omaha, to certain points in Colorado south of Pueblo found not justified. Suspended schedules ordered canceled.

654. Fifteenth section application approved.

Pierpont Mfg. Co. v. *S. Ry. Co.* (50 I. C. C., 81.)

655. Rates on logs, in carloads, from stations on defendant's line in South Carolina, south of Columbia, S. C., to Savannah, Ga., found not justified. Reasonable maximum rates prescribed for the future and reparation awarded.

Elton Lumber Co. v. *N. O., T. & M. R. R. Co.* (50 I. C. C., 85.)

656. Charges on yellow-pine lumber, in carloads, from Rhinehart Spur, La., to Lincolnville and Mahaska, Kans., and San Jon, N. Mex., found to have been unreasonable. Reparation awarded.

Ottawa Coal & Supply Co. v. *D., T. & I. R. R. Co.* (50 I. C. C., 87.)

657. Rates on coal, in carloads, from certain points in Kentucky to complainant's yards at Ottawa, Ohio, found to have been unreasonable. Reparation awarded.

658. Increase in Detroit, Toledo & Ironton Railroad Company's charge for switching coal, in carloads, originating at points in Kentucky, destined to complainant's yard at Ottawa, found not justified and reasonable maximum charge prescribed.

Culmers Co. v. *A., T. & S. F. Ry. Co.* (50 I. C. C., 90.)

659. Rates on petroleum products, in tank-car loads, from certain points in Missouri, Kansas, and Oklahoma to Salt Lake City and Provo, Utah, found to have been unreasonable. Reparation awarded.

Clearfield Lumber Co. v. *C. & O. Ry. Co.* (50 I. C. C., 93.)

660. Charges on a carload of oak lumber from Clearfield, Ky., to Maysville, Ky., reconsigned to New Kensington, Pa., found to have been illegal. Reparation awarded.

So. Eng. & Cons. Co. v. *St. L.-S. F. Ry. Co.* (50 I. C. C., 95.)

661. Charges legally applicable on rails and angle bars, in mixed carloads, from Cincinnati, Hamilton, and Lockland, Ohio, to Ferris, Tex., found to have been unreasonable. Reparation awarded.

662. Fourth section relief denied.

Carolina Portland Cement Co. v. *L. & N. R. R. Co.* (50 I. C. C., 98.)

663. Rate on lumber, in carloads, from Pace Junction, Fla., to Middlesborough, Ky., found to have been unreasonable. Reparation awarded.

Empire Oil Works v. *N. Y. C. R. R. Co.* (50 I. C. C., 99.)

664. Rates on petroleum and its products, in tank-car loads, from Reno, Pa., to Platteville, Mineral Point, and Lancaster, Wis., not shown to be unreasonable or unduly prejudicial. Complaint dismissed.

Swift & Co. v. *B. & O. R. R. Co.* (50 I. C. C., 103.)

665. Failure of defendants to make an allowance for unloading shipments of fresh beef from car floats to vessels' slings at the port of New York, N. Y., not found to have been unlawful or unreasonable. Complainant not shown to have been damaged by the undue prejudice alleged, and complaint dismissed.

Aetna Explosives Co. v. *C. & E. I. R. R. Co.* (50 I. C. C., 106.)

666. Rate on sulphuric acid, in carloads, from Fayville, Ill., to Ishpeming, Mich., found to have been and to be unreasonable to the extent that it exceeded or may exceed the aggregate of the intermediate rates contemporaneously in effect to and from Chicago, Ill. Reparation awarded.

Joseph Iron Co. v. *M. L. & T. R. R. & S. S. Co.* (50 I. C. C., 107.)

667. Rate on scrap-iron rails, in carloads, from New Orleans, La., to Richmond, Va., found to have been and to be unreasonable. Reparation awarded.

Fort Smith Commission Co. v. *K. C. S. Ry. Co.* (50 I. C. C., 109.)

668. Rate on sweet potatoes, in carloads, from Dardanelle, Ark., to Joplin, Mo., found to have been unreasonable. Reparation awarded.

W. Va. Rail Co. v. *C. & O. Ry. Co.* (50 I. C. C., 110.)

669. Rates on light steel rails in carloads from Huntington, W. Va., to New York, N. Y., Philadelphia, Pa., and Baltimore, Md., applied on shipments for domestic consumption, found to have been unreasonable to the extent specified in the report. Reparation awarded.

670. Rates on light steel rails in carloads from Huntington to the above eastern ports, when for export, not found to have been unreasonable, but found to have been unduly prejudicial. Reparation awarded.

671. Rates on light steel rails in carloads from Huntington to interior basing points not found unreasonable or unduly prejudicial.

672. Relationship established on light steel rails in carloads as between Huntington and Pittsburgh, Pa.

Lumber from Arkansas points. (50 I. C. C., 118.)

673. Proposed increased rates on pine and cypress lumber, in carloads, from certain points in Arkansas to Kansas City, Mo., Omaha, Nebr., and other western points found not justified. Suspended schedules ordered canceled.

Southeastern manufactured tobacco. (50 I. C. C., 120.)

674. Proposed increased rates on smoking tobacco, cigarettes, and plug tobacco from North Carolina points to central freight association territory found justified. Orders of suspension vacated.

Wilson & Co. v. *C., M. & St. P. Ry. Co.* (50 I. C. C., 126.)

675. Rates on hogs, in carloads, from Sioux Falls, S. Dak., to Chicago, Ill., found to have been and to be unreasonable. Reasonable maximum rate prescribed and reparation awarded.

Proctor & Gamble Co. v. *B. & A. R. R. Co.* (50 I. C. C., 131.)

676. Rate on coaconut oil, in carloads, from Boston, Mass, to Kansas City, Mo., found to have been unreasonable. Reparation awarded.

National Lumber Co. v. *A., F. & S. R. R. Co.* (50 I. C. C., 133.)

677. Demurrage found to have lawfully accrued at Evansville, Ind., on a carload of lumber shipped from Malone, Fla., reconsigned to Rockford, Ill., and the charges assessed not shown to have been unreasonable. Complaint dismissed.

Fort Smith Commission Co. v. *K. C. S. Ry. Co.* (50 I. C. C., 135.)

678. Rate on potatoes, in carloads, from Grand Forks, N. Dak., to Spiro, Okla., found to have been and to be unreasonable. Reparation awarded.

Elizabethton Flooring Co. v. *E. T. & W. N. C. R. R. Co.* (50 I. C. C., 137.)

679. Rates on maple lumber and maple flooring, in carloads, from Elizabethton and Roan Mountain, Tenn., to certain points in Georgia, Florida, and South Carolina not found unreasonable. Complaints dismissed.

680. Fourth section relief denied.

Terre Haute Paper Co. v. *St. L.-S. F. Ry. Co.* (50 I. C. C., 141.)

681. Rates charged on baled straw, in carloads, from Sikeston and related points in Missouri to Terre Haute, Ind., found to have been unreasonable prior to September 30, 1915, and illegal thereafter. Reparation awarded.

Diamond Coal & Coke Co. v. *P. R. R. Co.* (50 I. C. C., 144.)

682. The coal rate adjustment from mines in Pennsylvania to "short-haul territory," as herein described, is shown to be unduly preferential of Alicia, Bridgeport, Pike, and Braznell, and unduly prejudicial of Diamond. The rates from Diamond should not be higher than those contemporaneously maintained from the other mines here mentioned.

Commodities from East St. Louis. (50 I. C. C., 148.)

683. Proposal of respondents to cancel through commodity rates on grain and grain products, in carloads, from East St. Louis, Ill., via the Baltimore & Ohio Southwestern Railroad to Louisville, Ky., or Cincinnati, Ohio, and connections, thence to Tampa and other Florida destinations, found to have been justified.

684. Authority to cancel through rates via the Baltimore & Ohio Southwestern Railroad from points in the St. Louis district to points in southeastern territory granted.

Class rates from Chestnut Ridge Railway stations. (50 I. C. C., 152.)

685. Former findings reconsidered and *held*, that: (1) In the determination of what should be a reasonable allowance out of a line-haul rate to the Chestnut Ridge Railway for what is substantially a switching service it is not practicable to differentiate between class traffic, on the one hand, and commodity traffic, on the other; and (2) An average cost per carload ascertained upon all cars handled by the Chestnut Ridge Railway, including per diem, is equally applicable to class as well as commodity traffic, and in this case is applied to class traffic.

Port Huron & Duluth S. S. Co. v. *P. R. R. Co.* (50 I. C. C., 157.)

686. Divisions prescribed of joint rates between New York, N. Y., and Duluth, Minn., and points west thereof applicable via routes composed of eastern trunk lines, Grand Trunk Railway Company of Canada, Northwestern Steamship Company, and rail lines west of Duluth.

American Cast Iron Pipe Co. v. *L. & N. R. R. Co.* (50 I. C. C., 168.)

687. Rate on cast-iron pipe, in carloads, from North Birmingham, Ala., to Watervliet, Mich., found to have been and to be unreasonable. Reasonable maximum rate prescribed and reparation awarded.

688. Fourth section relief denied.

Kansas City Millers' Club v. *A., T. & S. F. Ry. Co.* (50 I. C. C., 170.)

689. Finding in *Western Rate Advance Case*, 25 I. C. C., 497, that carriers had justified a minimum weight of 40,000 pounds on grain products, affirmed on rehearing.

690. The maintenance of a higher interstate minimum on flour in carloads between points in the states of Kansas, Nebraska, Oklahoma, Texas, Arkansas, Missouri, and

Iowa than the minima contemporaneously maintained and applied to the intrastate transportation of flour in carloads within those states found unduly prejudicial to complainants and to interstate commerce and unduly preferential of their competitors and of intrastate commerce.

691. Minimum of 40,000 pounds on flour in carloads from the Missouri River and points in the state of Kansas to destinations in Mississippi Valley territory found unduly prejudicial to complainants and unduly preferential of their competitors located at points in the state of Illinois, from which a minimum of 30,000 pounds applies to the same destinations.

692. The 40,000-pound carload minimum on flour from the Missouri River and points in the states of Kansas, Nebraska, Oklahoma, Iowa, and Missouri to destinations in southeastern and Carolina territories not found to be unduly prejudicial.

Grain reshipped from Peoria. (50 I. C. C., 187.)

693. Proposed cancellation of reshipping rates on grain and grain products from Peoria and Pekin, Ill., to eastern trunk line territory via routes embracing portions of the Illinois Central Railroad found to be justified.

Lumber from the southeast. (50 I. C. C., 191.)

694. Proposed cancellations of routes for the movement of lumber, under joint rates, rom points on the Seaboard Air Line and the Atlantic Coast Line to eastern port cities and interior eastern territory, through Petersburg and Richmond, Va., and Hagerstown, Md., justified in part.

695. Proposed cancellation of the route through Florence, S. C., Wadesboro, N. C., and Hagerstown, Md., on lumber from Atlantic Coast Line points, north and east of the line from Wadesboro to Charleston, S. C., justified.

Storm Lake Tank & Silo Co. v. *L. Ry. & N. Co.* (50 I. C. C., 198.)

696. Rates on cypress lumber, in carloads, from Sorrento, Plaquemine, and Garyville, La., to Storm Lake, Iowa, found unreasonable. Reparation denied.

697. Fourth section relief denied.

Republic Creosoting Co. v. *N. O. G. N. R. R. Co.* (50 I. C. C., 201.)

698. Shipments of lumber from Bogalusa, La., to Indianapolis, Ind., for transit and reshipment to Chicago, Ill., found to have been misrouted by the initial carrier. Reparation denied for lack of proof of damage, and complaint dismissed.

Du Pont de Nemours Powder Co. v. *P. R. R. Co.* (50 I. C. C., 203.)

699. Carrier that performs a switching service, the entire charge for which is absorbed by the line-haul carrier, is not a necessary party to a proceeding involving the reasonableness of the rate under which the absorption is made. *Du Pont de Nemours Powder Co.* v. *P. R. R. Co.*, 43 I. C. C., 227, reversed.

700. Rates on coal ashes and cinder in carloads from Coatesville, Pa., to Carney's Point and Gibbstown, N. J., found to have been and to be unreasonable. Maximum reasonable rates prescribed and reparation awarded.

New Era Milling Co. v. *St. L. & S. F. R. R. Co.* (50 I. C. C., 207.)

701. Transit provisions of St. Louis & San Francisco Railroad's tariffs applicable to grain, in carloads, from points in Oklahoma, milled at Arkansas City, Kans., and reshipped beyond, cited and construed. Refund of overcharges directed and complaint dismissed.

Swift & Co. v. *C., C., C. & St. L. Ry. Co.* (50 I. C. C., 211.)

702. Charges on packing-house products, fresh meats, and other commodities, in peddler cars, from Chicago, Ill., to points in Illinois and Indiana found to have been unreasonable. Reparation awarded.

Richmond Oil Co. v. *A. C. L. R. R. Co.* (50 I. C. C., 213.)

703. Rates on petroleum and its products, in tank-car loads, from Baltimore, Md., to Richmond and Petersburg, Va., found justified. Complaint dismissed.

704. Fourth section relief denied.

Youngblood v. *C. R. R. Co. of N. J.* (50 I. C. C., 217.)

705. Certain storage charges on a carload of flour at Jersey City, N. J., found to have been illegal and demurrage charges not lawfully due. Reparation awarded.

Combs, Cass & Eastern R. R. Co. (50 I. C. C., 221.)

706. Combs, Cass & Eastern Railroad Company found to be a common carrier entitled to maintain and divide joint rates with the St. Louis-San Francisco Railway Company.

707. The divisions paid by the St. Louis-San Francisco Railway Company out of joint rates on interstate shipments of lumber and forest products should not exceed the maxima prescribed in *The Tap Line Case*, 31 I. C. C., 490.

Valley & S. R. R. Co. v. *S. P. Co.* (50 I. C. C., 223.)

708. The movement of certain carloads of relaying steel rails and fastenings from Portland, Oreg., to Crisp, Simpson, and Falls City, Oreg., held intrastate and beyond the jurisdiction of the Commission. Complaint dismissed.

Wright & Co. v. *A., T. & S. F. Ry. Co.* (50 I. C. C., 225.)

709. Rates charged on condensed smoke, in glass, in less than carloads, from Kansas City, Mo., to San Francisco, Cal., and certain other points found not justified. Reparation awarded.

Smith v. *A. C. L. R. R. Co.* (50 I. C. C., 227.)

710. Demurrage charges at Fremont, N. C., on four carloads of cotton linters shipped to Norfolk, Va., not shown to have been unreasonable. Complaint dismissed.

Moore Stave Co. v. *S. A. L. Ry. Co.* (50 I. C. C., 229.)

711. Rate on staves, in carloads, from Savannah, Ga., to New York, N. Y., not shown to be unjustly discriminatory or unduly prejudicial. Complaint dismissed.

Graham Co. Lumber Co. v. *S. Ry. Co.* (50 I. C. C., 231.)

712. Carload of Lumber from Andrews, N. C., to New York, N. Y., found to have been misrouted. Reparation awarded.

Swift & Co. v. *C., B. & Q. R. R. Co.* (50 I. C. C., 233)

713. Local rates on inbound less-than-carload shipments of live poultry from Missouri points to Trenton, Mo., there dressed, and shipped out in carload lots to interstate destinations, found to have been applicable. Complaint dismissed.

Batesville Excelsior Co. v. *M. P. R. R. Co.* (50 I. C. C., 235.)

714. Rate on excelsior in carloads from Batesville, Ark., to El Paso, Tex., found justified. Complaint dismissed.

Green Bay Specialty Co. v. *N. Y. & L. B. R. R. Co.* (50 I. C. C., 237.)

715. Less-than-carload shipment of pants from Asbury Park, N. J., to Green Bay, Wis., found to have been misrouted. Reparation awarded.

Lamb Co. v. *C., M. & St. P. Ry. Co.* (50 I. C. C., 238.)

716. Rate on strawberries, in carloads, from Villa Ridge, Ill., to La Crosse, Wis., not shown to have been or to be unreasonable. Complaint dismissed.

Casey-Hedges Co. v. *A. G. S. R. R. Co.* (50 I. C. C., 240.)

717. Shipments of cast-iron pipe and fittings, in carloads, from Chattanooga, Tenn., to Manila, P. I., found to have been overcharged. Reparation awarded.

Electric Controller & Mfg. Co. v. *Amer. Exp. Co.* (50 I. C. C., 243.)

718. Express charges on slate, in less than carloads, from Monson, Me., to Cleveland, Ohio, found to have been illegal and unreasonable. Reparation awarded.

Noble v. *L. & N. R. R. Co.* (50 I. C. C., 245.)

719. Charges on a carload of yellow-pine heading from Dallas, Ala., to West Ruland, Vt., found to have been illegal and unreasonable. Reparation awarded.

Merchants Freight Bureau of Little Rock v. *M. P. R. R. Co.* (50 I. C. C., 247.)

720. Rate on green salted hides, in carloads, from Memphis, Tenn., to Fort Smith, Ark., found to have been and to be unreasonable. Maximum reasonable rate prescribed. Reparation denied.

Indian Refining Co. v. *B. & O. S. W. R. R. Co.* (50 I. C. C., 249.)

721. Rate on petroleum and its products, in tank-car loads, from Lawrenceville, Ill., to Detroit, West Detroit, and Jackson, Mich., found to have been and to be unreasonable. Reparation awarded.

722. Fourth section relief granted in part.

Mount Pleasant Fertilizer Co. v. *L. & N. R. R. Co.* (50 I. C. C., 253.)

723. Rates for the transportation of fertilizer from Mount Pleasant, Tenn., to various points in the southeast not found to have been or to be unreasonable or unjustly discriminatory.

724. A shipment of fertilizer from Mount Pleasant to Heucks, Miss., found to have been misrouted and overcharged. Refunds directed.

725. Complaints dismissed, and fourth section relief denied.

American Lumber & Export Co. v. *L. & N. R. R. Co.* (50 I. C. C., 259.)

726. Rate on lumber, in carloads, from Nadawah, Ala., to Cartersville, Ga., found to have been unreasonable. Reparation awarded.

Mills & Co. v. *St. L.-S. F. Ry. Co.* (50 I. C. C., 260.)

727. Rate on apples in carloads, from Marshfield, Mo., to Tulsa, Okla., found to have been and to be unreasonable. Reasonable maximum rate prescribed and reparation awarded.

Barnum Richardson Co. v. *C. N. E. Ry. Co.* (50 I. C. C., 262.)

728. Storage charges assessed on certain carloads of charcoal shipped from points in Pennsylvania and held on complainant's private siding at East Canaan, Conn., found to have been illegal. Refund directed.

Hale-Halsell Grocery Co. v. *N. M. C. R. R. Co.* (50 I. C. C., 263.)

729. Rates on dried beans, in carloads, from Estancia, N. Mex., to Muskogee, Okla., and from Estancia, Willard, and Mountainair, N. Mex., to Durant, Okla., found to have been and to be unreasonable. Reasonable maximum rates prescribed and reparation awarded.

Universal Iron & Supply Co. v. *C., H. & D. Ry. Co.* (50 I. C. C., 266.)

730. Charges on an iron tank from Lima, Ohio, to Bogalusa, La., found to have been illegal and unreasonable. Reparation awarded.

Wise v. *P. R. R. Co.* (50 I. C. C., 268.)

731. Charges on a carload and numerous less than carloads of theatrical scenery and properties from New York, N. Y., to San Francisco, Cal., not shown to have been unreasonable or otherwise unlawful. Complaint dismissed.

American Refining Co. v. *St. L. & S. F. R. R. Co.* (50 I. C. C., 270.)

732. Charges applicable on certain carloads of petroleum tailings in tank cars from Okmulgee, Okla., to Gretna, La., reconsigned to Amesville, La., there barreled and reshipped to Westwego and New Orleans, La., for export, not shown to have been unreasonable, unjustly discriminatory, or otherwise in violation of the act. Complaints dismissed.

Heileman Brewing Co. v. *C., B. & Q. R. R. Co.* (50 I. C. C., 273.)

733. Following *Holmes & Hallowell Co.* v. *G. N. Ry. Co.*, 37 I. C. C., 627, rates on beer, in carloads, from La Crosse, Wis., to certain destinations in the state of Minnesota, and on empty beer packages, returned, from the same point to La Crosse, not shown to have been unreasonable, unjustly discriminatory, or unduly prejudicial.

734. Present rates on beer, in carloads, from La Crosse to Moorhead and Breckenridge, Minn., found to be unduly prejudicial as compared with the rates contemporaneously in effect on the same commodity from Chicago, Ill., and Milwaukee, Wis., to the same destinations. A proper relationship of rates prescribed for the future.

735. Rates on empty beer packages, returned, from Moorhead and Breckenridge to La Crosse, not shown to have been or to be unreasonable, unjustly discriminatory, or unduly prejudicial.

Potlatch Lumber Co. v. *W., I. & M. Ry. Co.* (50 I. C. C., 277.)

736. Two carloads of lumber were billed by the shipper from Potlatch, Idaho, to Victoria, Ill., Chicago, Peoria & St. Railway delivery. Notwithstanding the abandonment of that station several years prior to the movements, and the absence of a published through rate to Victoria, Knox county, Ill., on the Galesburg & Great Eastern Railroad, the intended destination, the shipments were accepted and ultimately delivered to their intended destination, one over a reasonably direct route and the other over a circuitous route, over a portion of which no rate was on file with this Commission; *Held*, That complainant is entitled to reparation from the initial carrier on basis of a reasonable charge over a reasonably direct route.

Carriere v. *A. & N. R. R. R. Co.* (50 I. C. C., 280.)

737. Defendants' joint rate of 38 cents per 100 pounds on staves and other forest products in carloads from Etoile, Tex., and other points on the Angelina & Neches River Railroad, to New Orleans, La., found to have been unlawful and unreasonable to the extent that it exceeded the aggregates of the intermediate rates contemporaneously in effect to and from Lufkin, Tex. Reparation awarded.

Ash Products Co. v. *V. R. R. Co.* (50 I. C. C., 283.)

738. Rate on wooden tent pins, in carloads, from Terre Haute, Ind., to St. Louis, Mo., found to have been and to be unreasonable. Reparation awarded.

Metzger v. *N. Y., C. & St. L. R. R. Co.* (50 I. C. C., 286.)

739. Charges assessed on six carloads of crude naphthalene from Denver, Colo., to Cleveland and Lorain, Ohio, found to have been unreasonable. Reasonable maximum rate prescribed for the future and reparation awarded.

National Asso. of Macaroni & Noodle Mnfrs. v. *A. G. S. R. R. Co.* (50 I. C. C., 289.)

740. Rates on macaroni products, in carloads and less than carloads, between points in official, western, and southern classification territories, not shown to have been or to be unreasonable or unduly prejudicial. Complaint dismissed.

Cleveland Provision Co. v. *A. A. R. R. Co.* (50 I. C. C., 293.)

741. For the transportation of hogs, calves, sheep, lambs, and goats from primary markets defendants' tariffs should provide that if a double-deck car is ordered, and in lieu thereof two single-deck cars are furnished, they may be used at the rate and minimum weight applicable to the double-deck car, provided a period of two days' exclusive of day of notice is allowed the carriers within which to furnish the car ordered.

Rieck Co. v. *B. & O. R. R. Co.* (50 I. C. C., 298.)

742. Rates on certain less-than-carload shipments of bottled milk, iced, in cases, from Ravenna, Ohio, to Pittsburgh, Pa., found not justified. Reparation awarded.

Gamble Robinson Fruit Co. v. *F. E. C. Ry. Co.* (50 I. C. C., 301.)

743. Rates legally applicable on grapefruit and oranges, in carloads, from Mims and Astatula, Fla., to Oelwein, Iowa, found to have been unreasonable. Reparation awarded.

744. Fourth section relief denied.

W. Va. Rail Co. v. *P. R. R. Co.* (50 I. C. C., 304.)

745. Rate on iron and steel rails, in carloads, from Sparrows Point, Md., to Huntington, W. Va., found justified. Complaint dismissed.

Classification of automobile bodies. (50 I. C. C., 309.)

746. Proposed increased rating in official classification, in so far as it would exceed three times first class, and proposed individual minimum weight, on passenger automobile bodies 36 inches or less in height, in less than carloads, found not justified.

747. Proposed increased rating of four times first class, subject to individual minimum weight of 1,000 pounds, on passenger automobile bodies exceeding 36 inches in height, in less than carloads, found justified.

Kindling Machinery Co. v. *C. & N. W. Ry. Co.* (50 I. C. C., 314.)

748. Charges on street washing machines in less than carloads, from Milwaukee, Wis., to Savannah, Ga., Pine Bluff, Ark., Greenville, Tex., and Chicago, Ill., not shown to have been unreasonable or unduly prejudicial. Complaint dismissed.

W. Va. Rail Co. v. *B. & O. R. R. Co.* (50 I. C. C., 318.)

749. Rate on iron and steel rails, in carloads, from Huntington, W. Va., to Birmingham, Ala., found unreasonable and unduly prejudicial. Reasonable maximum rate prescribed and reparation awarded.

Gamble Robinson Commission Co. v. *A. & B. R. Ry. Co.* (50 I. C. C., 324.)

750. Charge of $5 per car per trip for the use of a refrigerator car in the movement of apples from points of origin in Michigan to points in Iowa and Minnesota found not to have been unreasonable.

Va. Pine Timber Co. v. *N. Y., P. & N. R. R. Co.* (50 I. C. C., 327.)

Rates on mine props, in carloads, to Shenandoah, Pa., and points taking same rates, from—

751. Norfolk, Va., not shown to be unreasonable;

752. Certain points in Delaware, Maryland, and Virginia found unreasonable; reparation denied;

753. Roxbury, Providence Forge, Newport News, and Stearnes, Va., and on mine planks and mine boards, in carloads, from Roxbury, not shown to have been or to be unreasonable or unduly prejudicial. Complaints dismissed.

Chaney Co. v. *G. N. Ry. Co.* (50 I. C. C., 332.)

754. Rate on box shooks, in carloads, from Leavenworth, Wash., to Palisade, Colo., found to have been and to be unreasonable.

755. Rates on box shooks, in carloads, from Spokane, Wash., to Palisade and other points in Colorado not shown to have been or to be unreasonable or unduly prejudicial.

756. Rates on cedar poles, in single carloads, from Chewelah, Wash., to Mohrland, Utah, from Sand Point, Idaho, to Leadville, Colo., and from Colalla Spur, Idaho, to Montrose, Colo., and on cedar posts, in carloads, from Gravel Pit, Idaho, to Alamosa, Colo., found unreasonable to the extent that they exceeded and exceed by more than 2 cents per 100 pounds the rates contemporaneously in effect on like traffic from Spokane to the same destinations.

757. Rate on cedar posts, in carloads, from Ione, Wash., to Helper, Colo., found unreasonable to the extent that it exceeded and exceeds by more than 3 cents per 100 pounds the rate contemporaneously in effect on like traffic from Spokane to the same destination.

758. Reparation awarded.

Ewing & Co. v. *S. I. Ry. Co.* (50 I. C. C., 339.)

759. Rate on cedar posts, in carloads, from Alpine Spur, Idaho, to Payette, Idaho, by way of an interstate route, found unreasonable. Maximum reasonable rate prescribed.

International Paper Co. v. *B. & M. R. R.* (50 I. C. C., 341.)

760. Rates legally applicable on paper-box board, in carloads, from Bellows Falls, Vt., to Brightwood, Mass., and on the same commodity, in less than carloads, from Bellows Falls to certain points in Masaschusetts and Maine, not shown to have been or to be unreasonable. Complaint dismissed.

Dunham Co. v. *N. Y. C. R. R. Co.* (50 I. C. C., 343.)

761. Two carloads of rough castings from Berea, Ohio, to Portland, Oreg., found to have been overcharged. Reparation awarded.

Memphis Freight Bureau v. *St. L. & S. F. R. R. Co.* (50 I. C. C., 345.)

762. The complainants, acting in the capcity of agents for undisclosed principals, are not, as such, entitled to an award of reparation. Defendant authorized, however, to pay reparation subject to the conditions stated in the report.

Standard Oil Co. v. *N. P. Ry. Co.* (50 I. C. C., 350.)

763. Rates on interstate shipments of secondhand empty iron oil drums, returned, in less than carloads, from points in Oregon and Washington to Portland, Oreg., and Seattle, Wash., not found to have been unreasonable. Complainant not shown to have been damaged by the alleged undue prejudice. Complaint dismissed.

Southeastern manufactured tobacco. (50 I. C. C., 353.)

764. Proposed increased rates and differentials under the Virginia cities on manufactured tobacco from North Carolina manufacturing points to points in the southeastern territory found to be justified.

Great Falls Gas Co. v. *C., B. & Q. R. R. Co.* (50 I. C. C., 357.)

765. Rate on heavy petroleum oils, viz, crude, smudge, gas, and fuel oil, in carloads, from Cowley and Greybull, Wyo., to Great Falls, Mont., found to have been unreasonable between September 10 and October 29, 1916, to the extent that it exceeded the present rate, which is found reasonable but unduly prejudicial. Reparation awarded and undue prejudice ordered removed.

Johnson Service Co. v. *A. A. R. R. Co.* (50 I. C. C., 361.)

766. Rates legally applicable on iron dampers, in crates in less than carloads, from Milwaukee, Wis., to various points in western classification territory found unreasonable to the extent that they exceeded the third-class rates contemporaneously in effect.

767. Third-class rates contemporaneously in effect from Milwaukee to points in Illinois classification territory found to have been reasonable on iron dampers, in crates in less than carloads, from and to those points.

768. The establishment of commodity rates lower than the class basis on dampers, in less than carloads, from Milwaukee to certain Pacific coast points not justified.

769. Rates legally applicable on iron damper closers, in less than carload, from Milwaukee to points in western, Illinois, Canadian, and official classification territories, not shown to have been unreasonable or unduly prejudicial.

770. Rates on thermostats, in less than carloads, from Milwaukee to points in western and Canadian classification territories not shown to have been unreasonable or unduly prejudicial. First-class rating found to have been reasonable on this article, in less than carloads, from Milwaukee to points in Illinois classification territory.

771. Reparation awarded.

Nashville Hardwood Flooring Co. v. *C., B. & Q. R. R. Co.* (50 I. C. C., 367.)

772. Rates on binder or canvas slats, in carloads and less than carloads, from Nashville, Tenn., to Peoria, East Moline, and Chicago, Ill., and St. Louis, Mo., found to have been and to be unreasonable to the extent that they exceeded or may exceed the rates contemporaneously applicable on carpenters' molding from and to the same points. Reparation awarded.

Bay Bros. Lumber Co. v. *L. & A. Ry. Co.* (50 I. C. C., 369.)

773. Demurrage charges at Faithorn yard, Ill., on a carload of yellow-pine lumber from Trout, La., to Chicago, Ill., found to have been illegally assessed. Refund directed.

Ansted & Burk Co. v. *C., C., C. & St. L. Ry. Co.* (50 I. C. C., 371.)

774. Reparation awarded on wheat in carloads from certain points in Ohio, Indiana, Missouri, Kansas, Nebraska, and Oklahoma, stored in transit at Springfield, Ohio, and reshipped to New York, N. Y., for export.

Lalance & Grosjean Mfg. Co., v. *L. I. R. R. Co.* (50 I. C. C., 374.)

775. Demurrage charges at Woodhaven, N. Y., on a carload of coal from Remey No. 6 Mine, Pa., found to have been justified. Complaint dismissed.

Hanley & Kinsella Coffee & Spice Co. v. *T., St. L. & W. R. R. Co.* (50 I. C. C., 376.)

776. First-class rating under official classification on fennel seed, in less than carloads, not shown to have been or to be unreasonable.

777. Allegations that charges collected on two less-than-carload shipments of fennel seed from New York, N. Y., to St. Louis, Mo., were in excess of the legal charges, not sustained. Complaint dismissed.

Lang v. *M. P. Ry. Co.* (50 I. C. C., 377.)

778. Rate on sawed stone in carloads, from Carthage, Mo., to Kansas City, Kans., found to have been unduly prejudicial. Reparation awarded.

Meridian Fertilizer Factory v. *B. R. R. & C. Co.* (50 I. C. C., 379.)

779. Rates on sulphur, in carloads, from Sulphur Mines, La., and from Bryan Mound, Tex., to Hattiesburg and Meridian, Miss., not found to be unreasonable or unduly prejudicial. Complaints dismissed.

Proposed increase in express rates. (50 I. C. C., 385.)

780. Application of the express companies for a 10 per cent increase in interstate rates granted.

Atlanta Freight Bureau v. *L. & N. R. R. Co.* (50 I. C. C., 397.)

781. Rate of 56 cents per 100 pounds applicable on green coffee, in carloads, from New Orleans, La., to Atlanta, Ga., found unreasonable to the extent that it exceeded 48 cents per 100 pounds. Reparation awarded.

Lowe Co. v. *C., M. & St. P. Ry. Co.* (50 I. C. C., 403.)

782. Upon further consideration of the record herein, original finding adhered to.

National Wholesale Lumber Dealers' Asso. v. *S. Ry. Co.* (50 I. C. C., 405.)

783. Rate on lumber, in carloads, from Greenville, Tenn., to Wellsville, N. Y., found to have been legally applicable and not shown to have been unreasonable. Complaint dismissed.

Western trunk line potatoes. (50 I. C. C., 407.)

784. The proposed increased potato rates from producing sections in Minnesota, Michigan, Wisconsin, North Dakota, and South Dakota to jobbing and consuming centers in the middle west, the south, and the east, and also from the Chicago, Peoria, and St. Louis rate groups, to Sioux Falls, S. Dak., and points in northwestern Iowa taking Sioux Falls rates not justified.

785. Commodity rates on potatoes, carloads, from producing sections in Minnesota and North Dakota to Creston, Iowa, not shown to be unreasonable or unduly prejudicial.

786. Fourth section relief, also the fifteenth section application, denied. The tariffs under suspension required to be canceled and the complaint dismissed.

Parkersburg Rig & Reel Co. v. *A., T. & S. F. Ry. Co.* (50 I. C. C., 416.)

787. Rates on nails when shipped in mixed carloads with oil-well outfits and supplies, from Parkersburg, W. Va., and St. Louis, Mo., to certain points in Kansas, Wyoming, Oklahoma, Texas, and Louisiana, found to be unreasonable. Reparation denied.

Seller & Co. v. *S., P. & S. Ry. Co.* (50 I. C. C., 419.)

788. Two less-than-carload shipments of electric portable lamps from Portland, Oreg., to Spokane, Wash., found to have been overcharged and reparation awarded.

789. The western classification rating of double first class on less-than-carload shipments of electric lamps n. o. i. b. n. packed in barrels or boxes, found to have been justified, and the double first-class rating on art glass lamp shades shown to have been reasonable.

So. Pine Lumber Co. v. *A. C. L. R. R. Co.* (50 I. C. C., 423.)

790. Carload of lumber from Midland City, Ala., to Bradley, Ill., found not to have been misrouted. Complaint dismissed.

Miller & Lux v. *S. P. Co.* (50 I. C. C., 425.)

791. Rates on sheep, in carloads, from certain points in Nevada to San Francisco and Oakland, Cal., not shown to have been unreasonable. Complaint dismissed.

Murphey Co. v. *C., M. & St. P. Ry. Co.* (50 I. C. C., 427.)

792. A carload of potatoes from Pardeeville, Wis., to Marion, N. C., found not to have been misrouted. Complaint dismissed.

N. J. Zinc Co. v. *B. & O. R. R. Co.* (50 I. C. C., 429.)

793. Rates legally applicable on crude barytes, in carloads, from Cartersville, Ga., to Hazard, Pa., found to have been and to be unreasonable. Reparation awarded.

794. Fourth section relief denied.

Gulfport Fertilizer Co. v. *L. & N. R. R. Co.* (50 I. C. C., 432.)

795. Charges on imported pyrites ore, in carloads, from Pensacola, Fla., to Gulfport, Miss., found to have been unreasonable. Reparation awarded.

Hutton & Bourbonnais Co. v. *S. Ry. Co.* (50 I. C. C., 434.)

796. Carload of lumber from Hickory, N. C., to South Fort Plain, N. Y., found to have been misrouted. Reparation awarded.

Eastern Shore of Va. Produce Exch. v. *A. & St. L. R. R. Co.* (50 I. C. C., 436.)

797. Joint rates on vegetables, in carload lots, from wharves on the eastern shore of Virginia by boat to Baltimore and Crisfield, Md., and thence by rail to western, northern, and eastern points, found to be not unreasonable or unduly prejudicial. Complaint dismissed.

Galigher Machinery Co. v. *B. & O. S. W. R. R. Co.* (50 I. C. C., 448.)

798. Failure of initial carrier to stop at Brighton, Ohio, for completion of loading, a car partly loaded with electrical machinery at Oakley, Ohio, and consigned to Bingham, Utah, found to have resulted in damage to complainant. Reparation awarded.

Ill. Supply & Construction Co. v. *C., P. & St. L. R. R. Co.* (50 I. C. C., 449.)

799. Charges on common building brick, in carloads, from Dow, Ill., to Sedalia, Mo., found to have been unlawful. Reparation awarded.

Harmon & Co. v. *N. Y., O. & W. Ry. Co.* (50 I. C. C., 451.)

800. Rates on baby walkers, k. d., in crates and bundles, in less than carloads from Walton, N. Y., to Tacoma, Wash., found to have been unreasonable. Reparation awarded.

Wausau Southern Lumber Co. v. *C. & N. W. Ry. Co.* (50 I. C. C., 453.)

801. Rates charged on lumber, in carloads, from Laurel, Miss., to Des Plaines, Ill., found to have been illegal. Reparation awarded.

Harmon & Co. v. *N. Y., N. H. & H. R. R. Co.* (50 I. C. C., 455.)

802. Rate legally applicable on brass plated or coated iron rods in carloads from Wallingford, Conn., to Tacoma, Wash., found to have been unreasonable. Defendants authorized to waive undercharge.

Humphrey Brick & Tile Co. v. *Pa. R. R. Co.* (50 I. C. C., 457.)

803. In establishing the boundary lines of groups, carriers should follow some measure or principle, such as radial or operating distance, competition, character of freight, physical features of the country, and the location of transportation lines.

804. Rates on clay hollow building blocks, in carloads, from Brookville, Pa., to Atlantic seaboard cities and points taking same rates, found to be unduly prejudicial to the extent that they exceed the rates from certain other points in the same clay zone to the same destinations.

Knopke Bros. v. *C. & A. R. R. Co.* (50 I. C. C., 465.)

805. Rate on Spanish cedar cigar-box lumber, in carloads, from Brooklyn, N. Y., to Denver, Colo., found to have been unreasonable. Reparation awarded.

Block Co. v. *A., T. & S. F. Ry. Co.* (50 I. C. C., 469.)

806. Rates on coal, in carloads, from mines in Illinois to Muscatine, Iowa, not shown to be unreasonable, unjustly discriminatory, or unduly prejudicial. Complaint dismissed.

Merchants Exch. of St. Louis v. *T. R. R. Asso. of St. Louis.* (50 I. C. C., 474.)

807. Hay, in carloads, received at St. Louis, Mo., is frequently sold for reshipment to points beyond. The practice of the terminal carriers of requiring shippers to transfer to other cars, at their own expense, shipments of hay received at St. Louis in defective equipment as a condition precedent to rebilling to interstate destinations found unjust and unreasonable and unduly prejudicial. Reparation awarded.

Swift & Co. v. *A., T. & S. F. Ry. Co.* (50 I. C. C., 479.)

808. Rates for the transportation of carload shipments of dressed poultry, butter, and eggs from Sedalia, Mo., to points east of the Indiana-Illinois state line found to have been unreasonable to the extent that they exceeded the combination of rates to and from St. Louis, Mo. Reparation awarded.

Chicago Lumber & Coal Co. v. *A. G. S. R. R. Co.* (50 I. C. C., 481.)

809. Charges on a carload of yellow-pine lumber from Epley, Miss., to Lattimer Mines, Pa., found to have been illegal.

810. Shipment found to have been misrouted by the Mississippi Central Railroad Company.

811. Reparation awarded.

Mesilla Valley Produce Exch. v. *A., T. & S. F. Ry. Co.* (50 I. C. C., 483.)

812. Rates on wheat, in carloads, from certain points in Colorado, Kansas, Oklahoma, Nebraska, Illinois, Missouri, and northern Texas, to Las Cruces, N. Mex., not shown to have been or to be unreasonable or unduly prejudicial. Complaint dismissed.

813. Fourth section relief denied.

Gersch v. *N. Y., N. H. & H. R. R. Co.* (50 I. C. C., 486.)

814. Defendant's fares between Providence, R. I., and Touisset, South Swansea, and Fall River, Mass., not shown to be unreasonable, but found to be unduly prejudicial as compared with the fares between Providence and Bristol, R. I. Undue prejudice ordered removed.

National Tube Co. v. *B. & O. R. R. Co.* (50 I. C. C., 489.)

815. Principles announced in *General Electric Co.* v. *N. Y. C. & H. R. R. Co.*, 14 I. C. C. 297, reaffirmed and applied; and complaints of the National Tube Company, for reparation on the traffic of its plant at Lorain, in the state of Ohio, during a period of 12½ months when allowances out of the line-haul rate to its industrial railway were discontinued, dismissed. The demands of the Carnegie Steel Company for reparation during the same period dismissed on similar grounds.

816. The present tariffs of the trunk lines serving that plant also required to be readjusted in conformity with the findings and conclusions herein.

Toledo Produce Exch. v. *N. Y. C. R. R. Co.* (50 I. C. C., 515.)

817. Complaint seeking the establishment of lower ex lake rates and ex rail reshipping rates on grain and grain products from Toledo, Ohio, to points in eastern trunk line territory, on the basis of 78 per cent of the ex lake and ex rail rates from Chicago to New York, and the establishment of joint rates on grain from Missouri River cities to Toledo, found not sustained.

N. W. Terra Cotta Co. v. *A. & St. L. R. R. Co.* (50 I. C. C., 522.)

818. Official classification rating of fifth class on shipments of terra cotta for building purposes, in carloads, found not to be unreasonable.

819. Rates based on official classification rating of second class for shipments of terra cotta for building purposes, loose, of 10,000 pounds or more from points in the States of Illinois, Indiana, Missouri, and Colorado to points in central freight association and trunk line territories found to be unduly discriminatory as compared with rates based on official classification rating of fourth class on similar shipments from points in the States of New York, Pennsylvania, New Jersey, Delaware, and Maryland to destinations in central freight association and trunk line territories.

820. Reparation denied.

Montgomery Ward & Co. v. *P., C., C. & St. L. Ry. Co.* (50 I. C. C. 526.)

821. Rate on new furniture, n. o. s., in carloads, from Shelbyville, Ind., to Kansas City, Mo., found to have been unreasonable. Reparation awarded.

Northern Potato Traffic Asso. v. *A., T. & S. F. Ry. Co.* (50 I. C. C., 528.)

822. Commodity rate of 70 cents per 100 pounds on potatoes in carloads from Minnesota and Wisconsin producing points to the Dallas–Fort Worth group in Texas found to have been unreasonable to the extent that it exceeded 65 cents. Reparation awarded. The same rate from the same originating territory to the rest of Texas common point territory not shown to have been unreasonable, unjustly discriminatory, or unduly prejudicial.

Williams Co. v. *P. Co.* (50 I. C. C., 531.)

823. Rates charged on sewer pipe in carloads from Ohio points to certain destinations in Wisconsin and Michigan found not to have been in violation of section 4 of the act but unjust and unreasonable in so far as they exceeded the aggregate of proportional rates to the Lake Michigan west-bank crossings, so limited as not to apply on traffic to the destinations involved, plus the local or proportional rates beyond.

824. Reparation awarded.

Louisville Cement Co. v. *L. & N. R. R. Co.* (50 I. C. C., 538.)

825. Findings in the original report modified in accordance with decision of Supreme Court of the United States in *Louisville Cement Company* v. *Interstate Commerce Commission*, decided April 29, 1918, and reparation awarded in that portion of claim previously held barred.

Pelican Lumber Co. v. *V., S. & P. Ry. Co.* (50 I. C. C., 540.)

826. Mound, La., not found entitled to the same rates as Vicksburg, Miss., on hardwood lumber to points in official classification territory. Complaint dismissed.

Lehigh Coal & Nav. Co. v. *P. R. R. Co.* (50 I. C. C., 543.)

827. Refund of the actual expense incurred by complainant, under an agreement with the Pennsylvania Railroad Company, in furnishing barges and other equipment for the delivery of anthracite coal at destinations on or reached via the Delaware & Raritan Canal, authorized.

Guyton & Harrington Mule Co. v. *L. & N. R. R. Co.* (50 I. C. C., 546.)

828. For many years prior to March 21, 1916, defendants' exclusive live-stock depot in Nashville, Tenn., was the old stockyards, on Seventeenth avenue. No tariff effective at the time showed that fact. About that date the location of the exclusive live-stock depot of the defendants was changed to the new stockyards, on Second avenue, but no tariffs showed that fact until September 15, 1916. During the interim a tariff of one of the defendants became effective July 25, 1916, which showed the location of its exclusive live-stock depot as the old stockyards, on Seventeenth avenue. The change in location of defendants' exclusive live-stock depot made it necessary for complainant to drive mules a mile and a half through the city between the old and new locations during the period from March 21, 1916, to December 21, 1916. From late in 1914 until September 15, 1916, both defendants in their filed tariffs had shown complainant as an industry located at and entitled to be served through the old stockyards on Seventeenth avenue. *Held*: The denial of service to complainant at the old stockyards prior to September 15, 1916, was the taking away of a privilege or facility granted by tariff and was a rule, regulation, or practice which changed, affected, and determined the value of the service rendered to the complainant as shipper and consignee.

829. The new stockyards were constructed and are maintained mainly for the handling of animals intended for slaughter, such as cattle, sheep, and hogs; they were not and are not adequate or safe for the receipt, handling, or delivery of draft animals,

such as horses and mules but, in the absence of a claim and showing of unjust discrimination or undue prejudice, the Commission has no power to require defendants to provide either adequate or safe stockyard facilities.

830. Complainant is entitled to reparation for the charges paid and borne by it for the driving of mules between its yards and barns, adjoining the old stockyards, and the new stockyards during the period from March 21, 1916, to September 15, 1916, because the act of the defendants in denying complainant the services at the old stockyards offered by their tariffs was illegal. Other claims of complainant for reparation disallowed.

Anderson-Tully Co. v. *A. & V. Ry. Co.* (50 I. C. C., 553.)

831. Reparation awarded on shipments of box shooks, in carloads, from Vicksburg, Miss., to Port Arthur, Tex.

Macey Co. v. *P. M. R. R. Co.* (50 I. C. C., 555.)

832. Charges for trap-car service from complainants' plants to the Pere Marquette Railroad freight station at Grand Rapids, Mich., found to have been and to be unreasonable to the extent that they exceeded or may exceed $3 per car. Reparation awarded.

Cal. Walnut Growers Asso. v. *A. & R. R. R. Co.* (50 I. C. C., 558.)

833. Complaint attacking rates on walnuts and almonds in carloads from California producing points to points in intermountain territory, and in defined territories, Colorado and east, as unjust, unreasonable, unjustly discriminatory, and unduly prejudicial dismissed.

834. Reparation denied.

Wilson v. *P. R. R. Co.* (50 I. C. C., 571.)

835. Complaint alleging that by demanding the payment of undercharges from complainant on a carload of peaches from Ridge Springs, S. C., to Philadelphia, Pa., after the net proceeds from the sale thereof had been remitted to the consignor, while rendering correct bills to other commission merchants prior to the remitting of such proceeds, defendants discriminated against complainant, dismissed.

Forked Deer Milling Co. v. *I. C. R. R. Co.* (50 I. C. C., 573.)

836. Rates on corn, in carloads, from certain points in Illinois, Iowa, Kentucky, and Tennessee, milled at Dyersburg, Tenn., and the products forwarded to various interstate points, not shown to have been unreasonable or unduly prejudicial. Complaint dismissed.

N. W. Traffic & Service Bureau v. *M., St. P. & S. S. M. Ry. Co.* (50 I. C. C., 575.)

837. Rates on coal, in carloads, from Manitowoc, Wis., to St. Paul and Minneapolis, Minn., found justified. Complaint dismissed.

838. Fourth section relief denied.

National Live Stock Exch. v. *A. & S. Ry. Co.* (50 I. C. C., 578.)

839. Charges of $2.50 for cleaning and disinfecting single-deck and $4 for double-deck live-stock cars, moving interstate, when required by federal, state, county, or municipal authority, or upon the request of shippers, found not to be unlawful and the amount of the charges are shown by defendants to be no more than reasonable. Complaint dismissed.

Springston Lumber Co. v. *N. P. Ry. Co.* (50 I. C. C., 591.)

840. Combination rates for the transportation of pine and fir lumber from Harrison, Springston, and Rose Lake, Idaho, to points local to the line of the Northern Pacific Railway Company, east of Billings, Mont., in the states of Montana, North Dakota, and Minnesota, found to be unduly prejudicial.

841. Through routes and joint rates should be established, the latter not to exceed, from the three points of origin to Minneapolis, Minn., the rates contemporaneously maintained from Spokane to the same point of destination, graded westwardly therefrom so as not to exceed 2 cents per 100 pounds above the rate contemporaneously maintained from Spokane to Beach, N. Dak., at the latter point.

842. Rates from the three points of origin to Beach should be maintained as maxima to points between Billings and Beach.

Anderson-Theobald Co. v. *V. R. R. Co.* (50 I. C. C., 596.)

843. Former finding that the rates on sand and gravel, in carloads, from Allison Branch, Ill., to certain points in Indiana were unreasonable reversed on rehearing. Complaint dismissed.

Swift & Co. v. *T. & P. Ry. Co.* (50 I. C. C., 597.)

844. Amount of reparation due under original findings determined and order entered.

Legality of express franks. (50 I. C. C., 599.)

845. The free transportation of property upon franks issued by express companies to their officers and employees or to the officers and employees of other common carriers in exchange for passes or franks of such common carriers held to be unlawful.

846. The principle announced on July 20, 1917, in *Conference Ruling 513* reaffirmed.

Chamber of Commerce of Johnson City v. *S. Ry. Co.* (50 I. C. C., 605.)

847. Former finding to the effect that under the present rate adjustment there is an unjust discrimination against Johnson City and an undue preference in favor of Bristol, affirmed, and removal of discrimination ordered.

Condie-Bray Glass & Paint Co. v. *C., R. I. & P. Ry. Co.* (50 I. C. C., 607.)

848. Charges on a less-than-carload shipment of finished metal molding transported from St. Louis, Mo., to El Paso, Tex., on which charges were assessed on basis of the first-class rate and minimum weight of 4,000 pounds because it was too long to be loaded through the side door of an ordinary 36-foot box car, not found unreasonable. Complaint dismissed.

Traffic Bureau of the Sioux Falls Commercial Club v. *G. N. Ry. Co.* (50 I. C. C., 610.)

849. Defendants' carload rates on anthracite and bituminous coal and on coke from Duluth, Minn., not shown to be unjust or unreasonable. Complaint dismissed.

Cleveland Provision Co. v. *B. & O. R. R. Co.* (50 I. C. C., 612.)

850. Charges for the movement of peddler cars from Cleveland, Ohio, to points in central freight association and trunk line territories found unreasonable and unduly prejudicial.

Heated car service regulations. (50 I. C. C., 620.)

851. Under their present tariff rules the respondents are liable for loss or damage due to frost, freezing, or overheating, not the direct result of actionable negligence of the shipper, when, at the request of the shipper, and for a charge in addition to the rate, the carriers furnish protection to perishable commodities against heat or cold. A proposed amendment intended to relieve the respondents of liability for loss or damage to protected shipments between points in the United States and points in the Dominion of Canada found to have been unlawful as to traffic from points in the United States to destinations in Canada. The determination of the propriety of the proposed new tariff rule applicable to shipments from points in Canada to destination in the United States left with the Canadian commission.

Colonial Navigation Co. v. *N. Y., N. H. & H. R. R. Co.* (50 I. C. C., 625.)

852. The practice of the defendants in maintaining a through route for the transportation of passengers and baggage between New York, N. Y., and points on its lines, via Providence, R. I., in connection with the New England Steamship Co. which it controls through stock ownership, while refusing to establish a similar route with the complainant, found to result in undue prejudice. Defendant required to establish joint passenger fares in connection with complainant not higher than those contemporaneously maintained in connection with the New England Steamship Co.

Steamer lines on Long Island Sound. (50 I. C. C., 634.)

853. Petition of the New York, New Haven & Hartford Railroad Co., filed pursuant to section 5 of the act to regulate commerce as amended by the Panama Canal act, for permission to continue its operation of certain services by water on Long Island Sound and elsewhere, granted, as under the present circumstances and conditions it is found that the services are being operated in the interest of the public and are of advantage to the commerce and convenience of the people, and that continued operation by the petitioner will neither prevent, exclude, nor reduce competition on the route by water under consideration. Action in the future dependent upon circumstances and conditions.

In the matter of private cars. (50 I. C. C., 652.)

854. An important part of interstate commerce of the country is transported in privately owned cars. It is to the interest of the owners, carriers, and public that their operation should be continued, under such rules and regulations as will insure their efficient handling without discrimination against any shipper or particular description of traffic.

855. Under the situation as it exists, and under the facts and circumstances shown of record, shippers should be permitted to lease cars to transport shipments in interstate commerce from sources independent of carriers by railroad.

856. A charge in addition to freight rates should not be made for furnishing to shippers refrigerator, tank, or other special type of car, or for transporting their shipments therein, unless the freight rates are predicated on the transportation in another type of car, less expensive and not so difficult to operate.

857. Payments by carriers for the use of private cars should be upon the basis of the loaded and empty mileage, and the mileage should be computed on the basis of distance tables without the elimination of mileage through switching districts.

858. The allowance of three-fourths of a cent on the loaded and empty movements for the use of tank cars of all kinds by carriers should be increased to 1 cent a mile for the loaded and empty movements; the increased allowance should be paid for the use of live poultry, palace stock, and heater cars; and the increase should not apply to stock, coke, coal, rack, flat, box, or pocket cars, although they may be privately owned.

859. Carriers should publish in their tariffs a rule that privately owned or leased cars when unloaded at destination, unless otherwise ordered by the owner or lessee, must be promptly transported, loaded or empty, in the direction of the plant of the owner or lessee.

860. Where carriers own tank cars which are furnished to shippers on request, they shall publish in their tariffs rules for the distribution thereof whereby each shipper who makes reasonable request may receive his proportionate share of available cars.

861. Reicing charges on shipments of fresh meat, packing-house products, and dairy products should be based on the cost of the ice and salt used, the labor, investment in icing plants, etc., together with a reasonable profit; carriers should perform the service of reicing and make the charges therefor; and shippers of these products should not be permitted to perform the service of reicing their own and competitors' shipments en route, either directly or through corporations controlled by them.

862. Carriers should provide in their tariffs that private cars standing on tracks of owners shall not be subjected to demurrage charges.

863. The Master Car Builders' Association rules with respect to repairs on private and other cars should not be filed in tariffs of carriers. Suggestions made at the hearings as to modifications in rules and practices should be adopted by the association.

Oregon Fruit Co. v. *S. P. Co.* (50 I. C. C., 719.)

864. Carload rates for the transportation of watermelons from Monson and Sultana, Cal., to Salem, Corvallis, Portland, and Medford, Oreg., not shown to have been unreasonable or unjustly discriminatory.

865. Carload rates for the transportation of watermelons from Sultana and Monson to Salem and Medford, Oreg., found to have been in violation of long-and-short-haul rule of section 4 of the act. Reparation denied.

Iten Biscuit Co. v. *C., B. & Q. R. R. Co.* (50 I. C. C., 724.)

866. Rates on crackers, cookies, and wafers, in less than carloads, from Omaha, Nebr., to certain points in Kansas, and on empty cracker cans, in less than carloads, returned to Omaha from the same Kansas points, found to have been violative of the long-and-short-haul rule of section 4 of the act. In the absence of proof of unreasonableness and damage reparation denied and complaint dismissed.

Murphy Chair Co. v. *Wab. Ry. Co.* (50 I. C. C., 728.)

867. Ratings applied by defendants on pad, slip, and spring seat chairs and rockers, in carloads, in western classification territory found to be legally applicable.

868. Ratings on reed chairs and rockers, in straight carloads or when mixed with other chairs, in western classification territory, not shown to be unreasonable, unjustly discriminatory, or unduly prejudicial. Complaint dismissed.

Private wire contracts. (50 I. C. C., 731.)

869. The lawfulness of the so-called private-wire service depends upon whether or not private-wire messages are among "such other classes as are just and reasonable" into which respondent carriers are authorized by section 1 of the act to classify messages transmitted over their wires.

870. Respondents are common carriers engaged in the transmission of intelligence and, as to their interstate business, are subject to the provisions of the act.

871. The so-called wholesale theory has no proper place in the rates of common carriers; and, in so far as charges for private-wire service are based upon this theory, we find that the classification is not just and reasonable.

872. Lessees of private wires are not common carriers; and the fact that in Morse private-wire service the lessees furnish their own operators does not divest respondents of their status of common carriers as to messages sent over the private wires.

873. The Commission can not prescribe a minimum rate.

874. The record justifies the conclusion that respondents furnish private-wire service to all applicants therefor, at least to the capacity of their spare facilities, without discrimination and in the order of the application.

875. The record does not sustain the conclusion that the Morse private-wire service is a wholesale service.

876. The character of the Morse private-wire service differs from that furnished over the public wires and, stripped of certain abuses, may be recognized as a separate class of service available to the public upon reasonable compensation.

877. The Morse private-wire service is not shown to be unjustly discriminatory or unduly prejudicial to users of respondents' public telegraph service.

878. An abuse which must be removed is the provision in the private-wire contracts of one respondent that in time of interruption to the private wires the public wires can be used at half the regular rates.

879. There is no proper analogy between private-wire service and the practice of aggregating shipments into carload lots and shipping them at carload rates discussed in *Int. Comm. Comm.* v. *Del., L. & W. R. R.*, 220 U. S., 235. It seems proper, and from a practical standpoint and in the interest of the public necessary, to apply some reasonable restrictions to the private-wire service. Respondents are justified in inserting in the contract for private-wire service a provision restricting the use of instruments and facilities provided to the transmission of messages concerning the business of the lessee or lessees and providing that messages shall not be transmitted for other persons or firms. This is not to say that it is unlawful for two or more persons to unite in securing private-wire service where all are named as lessees.

880. The record warrants the conclusion that in rendering Morse private-wire service and the public message service at their present rates respondents are furnishing the more valuable service at a relatively lower charge, contrary to recognized principles of classification.

881. As the charges for messages other than by private wire are not in issue, and we can not assume that rates for the latter should be increased rather than that those for sending day messages should be reduced, we shall enter no order in this respect. Respondents should consider whether or not their rates for Morse private-wire service should be revised.

882. The record discloses no essential difference between the private-wire talking service and the toll service furnished by the Bell company, and we are of opinion that the classification of messages into private-wire talking service is not a just and reasonable classification.

Dow Chemical Co. v. *P. M. R. R. Co.* (51 I. C. C., 1.)

883. Storage charges assessed at Midland, Mich., on certain carloads of benzol, oils, sulphuric acid, charcoal, and chloride of sulphur found to have been illegal. Refund directed and complaint dismissed.

Gulf Refining Co. v. *L. & N. R. R. Co.* (51 I. C. C., 4.)

884. Rates on gasoline and other volatile petroleum oils in carloads from Mobile, Ala., to Chattanooga and Knoxville, Tenn., and from Gretna, La., to Mobile and Gadsden, Ala., and Knoxville, found to have been unreasonable. Reparation awarded.

Lamb-Fish Lumber Co. v. *Y. & M. V. R. R. Co.* (51 I. C. C., 6.)

885. Certain carload shipments of gum and oak lumber from Charleston, Miss., to Chicago, Ill., found to have been misrouted. Reparation awarded.

Bainbridge Oil Co. v. *M. & B. R. R. Co.* (51 I. C. C., 9.)

886. Rates legally applicable on cotton seed, in carloads, from certain points in Florida to Bainbridge, Ga., found unreasonable on rehearing and reparation found due.

Holt v. *A. G. S. R. R. Co.* (51 I. C. C., 11.)

887. Charges assessed on certain shipments of sulphuric acid, in tank cars, from points of production in the southeast to Emporium, Sinnemahoning, Mount Union, and Oakdale, Pa., found to have been unreasonable. Reparation awarded.

Loveland & Hinyan Co. v. *D. & H. Co.* (51 I. C. C., 15.)

888. Rates for the transportation of carload shipments of potatoes from certain points in Iowa to Pittsburgh, Scranton, and Wilkes-Barre, Pa., in October, 1915, found to have been unreasonable, and reparation awarded.

Cameron & Co. v. *A., T. & S. F. Ry. Co.* (51 I. C. C., 18.)

889. Rate on common window glass, in carloads, from Okmulgee, Okla., to Waco, Tex., found to have been unreasonable. Reparation awarded.

Sunderland Bros. Co. v. *C., B. & Q. R. R. Co.* (51 I. C. C., 21.)

890. Rates on salt, in carloads, from Hutchinson, Kans., to certain points in Nebraska not shown to have been or to be unreasonable or otherwise in violation of the act. Complaint dismissed.

Little Rock Freight Bureau v. *M. P. Ry. Co.* (51 I. C. C., 23.)

891. Rate on oak heading, in carloads, from Indianapolis, Ind., to Batesville, Ark., not shown to have been unreasonable, unjustly discriminatory, or unduly prejudicial. Complaint dismissed.

Bruer & Son v. *N., C. & St. L. Ry.* (51 I. C. C., 25.)

892. Rates on cedar posts and poles in carloads from Silver Springs, Tenn., to Wilsonville, Palisade, and Hendley, Nebr., found to have been unreasonable and unlawful. Reparation awarded.

United Shoe Machinery Co. v. *B. & M. R. R.* (51 I. C. C., 28.)

893. Charges for ferry-car service from Beverly, Mass., on interstate shipments of shoe machinery and parts, back hauled after transfer through the originating station, not shown to have been unreasonable or otherwise in violation of the act. Complaint dismissed.

Potlatch Lumber Co. v. *C., M. & St. P. Ry. Co.* (51 I. C. C., 31.)

894. Rates on lumber from Elk River, Idaho, to Bonfield and certain other points in Illinois, not shown to have been or to be unreasonable, unjustly discriminatory, or unduly prejudicial. Shipment from Elk River to Bonfield found to have been overcharged and reparation awarded.

895. Fourth section relief denied.

National Poultry, Butter & Egg Asso. v. *B. & O. S. W. R. R. Co.* (51 I. C. C., 34.)

896. Upon rehearing class rates for the transportation in official classification territory of dressed poultry, butter, eggs, and cheese, in any quantity, found not to have been sufficiently high to include refrigeration during the period from March 20, 1915, to June 1, 1917, when an extra charge for service was made. Finding in original report, 43 I. C. C., 392, that the class rates plus the separate icing charge for the combined services of line haul and refrigeration during the period mentioned had not been justified accordingly reversed, and claims for reparation in the amount of the icing charge on shipments that moved during that period denied.

Dimmitt-Caudle-Smith Live Stock Commission Co. v. *C., B. & Q. R. R. Co.* (51 I. C. C., 71.)

897. In its original report the Commission found among other things that the maintenance of rules for the free return transportation of caretakers accompanying one-car shipments of cattle, calves, hogs, and sheep from points in Missouri to East St. Louis and National Stock Yards, Ill., on the one hand different from those applicable to St. Louis, Mo., on the other was unduly prejudicial to East St. Louis and National Stock Yards and shippers therein, and ordered the discrimination removed. Upon rehearing, *Held:* That the reasonable rule for the transportation of caretakers accompanying one-car shipments of cattle, calves, hogs, and sheep from Missouri points to East St. Louis and National Stock Yards is to provide for their free transportation to market only.

Diamond Lumber Co. v. *C., M. & St. P. Ry. Co.* (51 I. C. C., 78.)

898. The complainant's allegations of unreasonableness and undue preference in the distribution of defendant's logging cars on its Superior division during times of car shortage held not to be sustained.

899. The situation as to coal cars differentiated and conclusion reached that the distribution of these logging cars by fixed rules would be impracticable, and that the discretion of the chief train dispatcher or other employee of the defendant must finally govern upon the facts of this case.

900. The record affords no lawful basis for requiring defendant to equip flat cars engaged in the logging traffic on its Superior division with bunks and chains, or with patented stakes for securing the load.

901. Complaint dismissed.

Texas Midland Railroad. (1 Val. Rep. 1.)

902. The valuation amendment, section 19a of the act to regulate commerce, authorizes the Commission to find a single sum as the value of the common carrier property for purposes under the act to regulate commerce; and the Commission will ultimately make such finding as to the property of each carrier, supplementing tentative valuations already made in which a single sum is not stated by such findings.

903. In the instant case, findings as to underlying facts are made, with leave to the parties to apply to be heard as to what sum based thereon shall be stated as the value of the property held for the purposes of a common carrier; otherwise the Commission will in course state its conclusions and complete the final valuation.

904. Methods employed in ascertaining the several cost values analyzed and stated. Upon the finding of a single sum as value, further appropriate analysis of the methods and reasons for the differences, if any, will be presented.

905. Original cost to date, which generally can not be ascertained from accounting records alone, will be reported as fully as possible from the best available evidence in each particular case. When the original cost of portions of the common-carrier property, but not of the whole, can be stated, the ascertained facts will be reported; when the cost of no portion of the property can be identified, the carrier's investment account will be shown. Estimates will be resorted to, within comparatively narrow limits, as to minor portions of the property, the cost of which can not be ascertained from records.

906. In requiring a report as to the original cost to date of "each piece of property" owned or used by a carrier, the act can not be narrowly construed. A reasonable construction requires that original cost should be reported in all reasonable detail, and the words refer to various sections of the railroad, rather than the individual ties, rails, and similar elements.

907. Findings of original cost to date will be supplemented in each case by a full statement of the financial history of the carrier which shows the maximum amount of money which was put into the property.

908. The maximum amount which could have been invested by the carrier, its predecessor, or others, ascertained and stated in the instant case as representing the outside limit of original cost of the property of the respondent to date of valuation.

909. Cost of reproduction new of the common-carrier property ascertained and stated, upon the assumed basis of the nonexistence of the railroad while all other conditions in the same territory were taken as existent on valuation date, that the most practicable and economical construction program is employed, and that to an inventory of items making up the physical property shall be applied cost prices fairly representative of conditions on valuation date, with the addition of the estimated cost of placing the items in position as of valuation date, and including certain overhead charges.

910. In ascertaining the cost of reproduction new the Commission is not to ignore expenses which would be incurred by reason of the fact that the physical plant, other than land, would have to be built, and is not limited merely to the reporting of an inventory value.

911. The assumption of present conditions of the existing property, rather than of the original construction conditions, is applied in determining questions raised by the protest as to particular accounts in the estimate of cost of reproduction new.

912. Industrial tracks are those which the carrier has not an unrestricted right to use in serving the public, but which it is obligated to use instead, exclusively or preferentially, in serving a particular industry or certain industries. In the cost of reproduction new estimate are included such portions of industry tracks as the carrier has a right to remove if it should discontinue the service, or as were in fact paid for by the carrier in original construction. Industry tracks constructed at the expense of the industry and owned by it are not included in the cost of reproduction new.

913. The words in the valuation act "used by said carrier for its purposes as a common carrier" can not be construed as including property not owned by the carrier where the use of it is only incidental and at the request and for the peculiar benefit of the owner.

914. Under the assumption of present conditions, topographical and otherwise, in determining the cost of reproduction new, sums expended by the carrier in the past for assessments for public improvements will not be included unless the improvement for which the assessment was made is located on the right of way or so closely connected therewith that it would be wiped out if the railroad were removed. Sums actually expended for such improvements are reported in original cost to date when such a figure can be ascertained.

915. The rule stated as to the inventorying of property used by a carrier for common-carrier purposes, but which is owned (1) by other common carriers, or (2) by parties

other than a common carrier; and of property which is used jointly with other carriers for common-carrier purposes.

916. No allowance made in the estimate of cost of reproduction new for contingencies as such; but the quantities and prices employed reflect various construction contingencies and fairly represent the amount of money necessary to reproduce the identical property.

917. The percentage plan of stating engineering in the cost of reproduction new is adopted. In stating the cost of reproduction new by the percentage method engineering should be computed on the amount of the investment in the road accounts, exclusive of engineering and land.

918. The percentage method of estimating general expenditures, other than interest during construction, is adopted in determining the cost of reproduction new, and the percentage adopted in the present case is applied to the road accounts, exclusive of land.

919. In estimating interest during construction, for the purpose of stating the cost of reproduction new, it has been assumed that the credit available is good and uniformly the same and that money is obtainable at the same rate of interest and supplies can be purchased at equally advantageous prices; 6 per cent per annum is assumed as the interest rate and is taken as covering the cost of obtaining money.

920. The period used in determining interest during construction in estimating the cost of reproduction new is taken at one-half of the estimated construction period required for reproduction, plus three months, as to road and general expenditures; and at three months for equipment.

921. Materials and supplies and cash on hand are not included in the estimate of cost of reproduction new; but the amounts on hand, as shown by the carrier's inventory and its general balance sheet, are stated in the tentative and final valuation.

922. In estimating cost of reproduction new, the property to be reproduced is taken as the existing property as it was when put into its present service; and if secondhand materials were used, the cost of reproduction new is estimated for the same kind of materials in the same condition as when installed.

923. The protest of the carrier with respect to the unit prices employed in the estimate of cost of reproduction considered, and various modifications made as to the prices applied to particular classes of material and labor.

924. In estimating the cost of reproduction less depreciation, depreciation has been treated as covering the lessening in the number of units of capacity for service as compared with those existing in the same elements when installed; and upon ascertaining what part of the remaining capacity for service remains, the depreciation which has already accrued is subtracted from the cost of reproduction new and the remainder is given as the cost of reproduction less depreciation. Due consideration is given to existing salvage or scrap value. Depreciation is not taken merely as the equivalent of deferred maintenance or loss of service efficiency. The tentative report herein is corrected as to the service life of certain species of properties.

925. In estimating the cost of reproduction new, as a telegraph line is necessary in the conduct of the business of a carrier, it is assumed that the carrier would equip itself with such facility in the same manner that it did originally, and would be obliged to perform the same amount of work in the theoretical reproduction of the property as it did in the original construction, although a portion of the line was, by agreement, put in the exclusive use of a telegraph company, and the title to the line is in the telegraph company.

926. The present value of the lands owned or used for common-carrier purposes is stated by ascertaining the number of acres and multiplying this acreage by a market value determined from the present fair average market value of similar adjacent and adjoining lands, due allowance being made for any special value which may attach by reason of the peculiar adaptability of the land to railroad use; but nothing additional is added for the expense of acquisition, for severance damages, for engineering, and for interest during construction. For reasons stated, the reproduction cost of carrier lands, and the present cost of condemnation and damages, or of purchase, of a carrier's lands, are not estimated.

927. When a street or alley in a municipality has been vacated and the carrier uses the land exclusively for common-carrier purposes, the original cost of the land to the carrier, if ascertainable, and its present value, will be included in the inventory as land owned by the carrier, unless it affirmatively appears the carrier does not own it.

928. Where a street or alley in a municipality is used as such by the public, and is also used by the carrier for its common-carrier purposes, along or across the same, no part thereof will be inventoried as land owned by the carrier unless it affirmatively appears that the carrier owns it.

929. Where a highway outside of a municipality is used as such by the public, and is also used by the carrier for its common-carrier purposes, along or across the same, the land jointly used, together with its original cost, if ascertainable, and its present value will be inventoried as land owned by the carrier unless it affirmatively appears that the carrier does not own it.

930. While the valuation act evidently intends to require a statement of all the cost values, and other circumstances which might bear upon the value of the property, at least for rate-making purposes, and appreciation is a fact which may affect the final value of the property, the record herein does not warrant any definite finding either as to the cost or value of such appreciation as has resulted from maintenance, operation, and the effects of time upon the roadbed.

931. The finding in the tentative valuation that "no other values or elements of value were found to exist" is approved upon the record in the instant case, in the light of the fact that in the cost of reproduction new and the cost of reproduction less depreciation figures requisite consideration was given to the fact that the property constitutes a railroad and was doing business, and is not merely an aggregate of materials.

932. Findings and order made as to basic facts in the final valuation of the carrier, to be supplemented by further appropriate finding and order with respect to the value of the property used for common-carrier purposes.

Winston-Salem Southbound Railway Company. (1 Val. Rep., 187.)

933. Exceptions of respondent carrier, Winston-Salem Southbound Railway Company, to a tentative valuation made by the Commission and served under the provisions of section 19a of the act to regulate commerce, as amended March 1, 1913, considered and determined. Various changes made in the tentative valuation, and the tentative valuation as corrected made final, to be supplemented by further appropriate findings and order with respect to the value of the common-carrier property.

934. *Texas Midland Railroad*, 1 Val. Rep., 1, followed, as to construction of section 19a of the act, as amended.

INDEX TO POINTS DECIDED IN REPORTED CASES.

[The numbers refer to the corresponding headnotes. For example, the number 18, found under the head of Commodity rates in this index, refers to the paragraph of that number in the foregoing statement of Points Decided by the Commission.]

TABLE OF REPORTED CASES DECIDED.

[On the page indicated will be found the points decided in each case.]

APPENDIX E.

DIGEST OF FEDERAL COURT DECISIONS.

DIGEST OF FEDERAL COURT DECISIONS.

A discussion of court decisions, involving injunctions to restrain enforcement of orders of the Commission and of decisions relative to criminal violations of the law, can be found in the text of this annual report. The decisions abstracted herein involve questions of railway regulation which are closely related to matters arising before commissions.

IN THE SUPREME COURT.

INTRASTATE COMMUTATION TICKETS.

In *Pa. R. R. Co.* v. *Towers*, 245 U. S., 6, decided October 15, 1917, it was held that intrastate rates for commutation tickets may be fixed by a state through a duly authorized public service commission at less than the legally established normal one-way single passenger fare without taking the carrier's property in violation of due process of law, or denying to it the equal protection of the laws, where a system of commutation rates has already voluntarily been established by the carrier.

DISCLOSURE BY CARRIER OF INFORMATION.

In *S. A. L. Ry.* v. *N. C.*, 245 U. S., 298, decided December 10, 1917, it was held that the prohibition in the act to regulate commerce against the disclosure by a carrier of information respecting interstate shipments except under the circumstances therein specified, necessarily ceased, upon the enactment of the Webb-Kenyon act in regard to interstate shipments of intoxicating liquors subject to state legislation.

FEDERAL POWER OVER INTRASTATE RATES.

In *I. C. R. R. Co.* v. *P. U. C. of Ill.*, 245 U. S., 493, decided January 14, 1918, it was held that Congress could and did vest the Interstate Commerce Commission with authority to remove an existing discrimination against interstate commerce by directing a change of an intrastate rate prescribed by state authority.

VALUATION OF PLANT AS A GOING CONCERN.

In *Denver* v. *Denver Union Water Co.*, 246 U. S., 178, decided March 4, 1918, it was held that in ascertaining the value of a water system for the purpose of determining whether the rates fixed by a municipal ordinance are inadequate and confiscatory, its value as a going concern is properly included.

DISAPPROVAL OF FEDERAL BOILER INSPECTOR.

In *G. N. Ry. Co.* v. *Donaldson*, 246 U. S., 121, decided March 4, 1918, it was held that failure of the Federal boiler inspector to disapprove of the use of crown bolts having large button heads in the boiler of an oil-burning locomotive is not conclusive of the propriety of their use.

STOPPING INTERSTATE TRAINS.

In *G., C. & S. F. Ry. Co.* v. *Texas*, 246 U. S., 58, decided March 4, 1918, it was held that a state may require that four passenger trains each way, if so many are run daily, Sundays excepted, shall stop at all county-seat stations, although this may necessitate the stopping of two interstate mail trains, one each way, at a place having a population of but 1,500, where this is the only county seat at which those trains do not stop, and they do stop at some smaller places, as well as make a detour to go through an important city, and where but little time will be consumed in making these additional stops.

CARMACK AMENDMENT.

In *B. & M. R. R.* v. *Piper*, 246 U. S., 439, decided April 15, 1918, it was held that an interstate live-stock carrier can not, by an agreement made in consideration of a reduced rate, and contained in a bill of lading issued pursuant to the Carmack amendment, in

conformity with the carrier's tariffs filed with the Commission, limit its liability from unusual delay and detention caused by its negligence to the amount actually expended by the shipper in the purchase of food and water for his stock while so detained.

In *Emery & Co.* v. *American Refrig. Transit Co.*, 246 U. S., 634, decided April 29, 1918, it was held that a suit against a refrigerator transit company for damage to peaches caused by their being improperly stowed, handled, and iced, amounting to less than $3,000, is not removable to a Federal district court because of a particular contract between the refrigerator company and a carrier.

PROTECTING JURISDICTION OF FEDERAL COURTS PENDING FURTHER INVESTIGATION BY THE COMMISSION.

In *Looney* v. *Eastern Texas R. R. Co.*, 247 U. S., 214, decided May 20, 1918, the Supreme Court declined to take jurisdiction of an appeal from a temporary injunction restraining the enforcement of a state statute pending further investigation and report by the Interstate Commerce Commission.

UNDERCHARGES.

In *L. & N. R. R. Co.* v. *Rice*, 247 U. S., 201, decided May 20, 1918, it was held that the original jurisdiction of a Federal district court extends to a suit by a railway carrier against a commission merchant, the consignee of interstate shipments of live stock, to recover the charges for disinfecting the cars, claimed to be due under a tariff duly filed with the Commission, although the commission merchant had paid what at first was demanded and had settled in full with his principal.

SEPARATE TERMINAL CHARGES.

In *C., M. & St. P. Ry. Co.* v. *Minneapolis Civic & Com. Asso.*, 247 U. S., 490, decided June 10, 1918, it was held that a railway company owning what are obviously merely terminal or spur delivery tracks in a city, and which is a mere agency of two other railway companies entering that city, which own its capital stock and control its operations, can not be regarded as an independent public carrier, free to impose separate carrying charges on the public merely because it is technically a separate legal entity.

DUTY TO SELECT CHEAPER ROUTE.

In *N. P. Ry. Co.* v. *Solum*, 247 U. S., 477, decided June 10, 1918, it was held that the duty of a carrier to ship by the cheaper of two routes in the absence of shipping instructions is not absolute. The obligation of the carrier is to deal justly with the shipper, not to consider only his interests and disregard wholly its own interests and those of the general public; and if, all things considered, it would be unreasonable to ship by the cheaper route, the carrier is not compelled to do so.

IN THE CIRCUIT COURTS OF APPEALS.

LIABILITY FOR GOODS LOST.

In *United Metals Selling Co.* v. *Pryor*, 243 Fed., 91, decided April 20, 1917, the court for the eighth circuit held that the liability of a railroad company subject to the act to regulate commerce on a contract with an interstate shipper is not governed by the state law, but is a Federal question governed by uniform rule.

THROUGH AND LOCAL RATES.

In *M. L. & T. R. R. & S. S. Co.* v. *Joseph Iron Co.*, 243 Fed., 149, decided June 5, 1917, the court for the sixth circuit held that a finding of the Commission that a through rate from Houston to Chicago was unreasonable, so far as it exceeded the sum of the local rates, will not be disturbed, when supported by evidence, though the local rate from Houston to New Orleans, used as a basis of comparison, applied only to shipments destined to points beyond New Orleans to which no through rates were published; no other rate from Houston to New Orleans being shown, and there being no attempt to show any reason for any distinction between Chicago and other points beyond New Orleans.

INTEREST ON AWARDS OF REPARATION.

In *Pa. R. R. Co.* v. *Minds*, 244 Fed., 53, decided October 8, 1917, the court for the third circuit held that where the difference between the verdict, in an action against a railroad company for damages for discrimination in furnishing cars, and the amount originally claimed before the Commission was not so great as to show an undue inflation of the claim, the allowance of interest by the Commission from the date of the award is not subject to attack; it not being erroneous to allow interest in such proceeding.

DEMURRAGE CHARGES.

In *C. & O. Coal & Coke Co.* v. *T. & O. C. Ry. Co.*, 245 Fed., 917, decided July 5, 1917, the Court for the Fourth Circuit held that a local tariff of demurrage charges applies after it has gone into effect, by notice for the required time, to all cars, including those accepted for transportation before the tariff was issued and filed with the Commission; the optional allowance of storage at destination being wholly disconnected with the service of transportation.

In *M. C. R. R. Co.* v. *U. S.*, 246 Fed., 353, decided December 4, 1917, the Court for the Sixth Circuit held that under the provision of a cartage tariff that shipments so handled will not be subject to car service or storage service accruing through the company's failure to make delivery within specified free time, goods subject to cartage tariff are not exempt from demurrage, unless the failure to make delivery within the specified free time is that of the company.

DAMAGES FOR UNREASONABLE RATES.

In *A., T. & S. F. Ry. Co.* v. *Spiller*, 246 Fed., 1, decided October 26, 1917, the Court for the Eighth Circuit held that in an action on a reparation order of the Commission, where it was contended that the findings of the Commission on which the order was based were unsupported by substantial evidence, the court may consider the character of the evidence introduced in support of the order.

It was further held in this case that where railroad companies exacted unreasonable rates on cattle, the difference between the unreasonable rates exacted and reasonable rates subsequently established can not be made the only basis for a reparation order under the act to regulate commerce without any showing that the shippers were actually damaged from the exaction of such illegal rates, for freight rates obviously would affect the prices to be paid at destination.

Upon rehearing on March 11, 1918, 249 Fed., 677, the court, following the *Darnell-Taenzer Case*, 245 U. S., 531, held that where a shipper has paid a rate afterwards declared by the Commission to be excessive he may recover as damages the difference between the excessive rate and the rate declared to be just and reasonable by the Commission, without proof of actual injury.

"INTERMEDIATE STATIONS" IN TARIFFS.

In *National Elevator Co.* v. *C., M. & St. P. Ry. Co.*, 246 Fed., 588, decided October 6, 1917, the Court for the Eighth Circuit held that in a railroad tariff fixing rates to and from stations named and also providing for the rates to apply to "intermediate stations" the word "intermediate" refers to stations between those named.

COMMODITIES CLAUSE.

In *Ketchum* v. *D. & R. G. R. R. Co.*, 248 Fed., 106, decided December 4, 1917, the Court for the Eighth Circuit held that a complainant who shows no injury to himself other than as a member of the general public can not maintain a suit for the appointment of receivers for coal companies on the ground of violation of the commodities clause of the act to regulate commerce.

AN EXPRESS COMPANY IS A COMMON CARRIER.

In *Taylor* v. *Wells Fargo & Co.*, 249 Fed., 109, decided February 28, 1918, the Court for the Fifth Circuit held that an express company is a common carrier, as the transportation which is conducted on a railroad by an express company is properly within the function of the railroad. All the handling of freight by express companies could be by railroad companies, and shippers could compel the acceptance by railroad companies of such freight.

CARMACK AMENDMENT.

In *King* v. *Barbarin*, 249 Fed., 303, decided March 5, 1917, the Court for the Sixth Circuit held that under the Carmack amendment the initial carrier of an interstate shipment is liable for a misdelivery by the terminal carrier.

LEASE OF TANK CAR.

In *A. & V. Ry. Co.* v. *Amer. Cotton Oil Co.*, 249 Fed., 308, decided February 4, 1918, the Court for the Fifth Circuit held that where a railroad company made an allowance of the freight because the consignee furnished its own tank car, the company, as it exercised no right over the car except for the limited purpose of transporting the shipment, should not be treated as a lessee.

ALLOWANCES FOR ELEVATOR SERVICES.

In *Omaha Elevator Co.* v. *U. P. R. R. Co.*, 249 Fed., 827, decided March 4, 1918, the Court for the Eighth Circuit held that elevator facilities furnished a railroad company in connection with the transportation of grain are, in view of the Hepburn amendment, within the provisions of the act to regulate commerce, and, unless allowances therefor by the railroad company were covered by published and filed rate schedules, such amounts could not be legally collected by the elevator company; hence, after the cancellation of tariff schedules providing for the allowances, the elevator company can not thereafter recover for such services, though it continued to render them.

INTERSTATE COMMERCE.

In *Settle* v. *B. & O. S.W. R. R. Co.*, 249 Fed., 913, decided May 7, 1918, the Court for the Sixth Circuit held that whether a given transportation is interstate or intrastate must be determined by the essential character of the commerce, and an interstate character can not be evaded by the mere device of billing to an intermediate point and then rebilling from that point.

INTRASTATE COMMERCE.

In the last-mentioned case it appeared that interstate shipments of lumber were billed to a point where the cars were received by the consignee and the freight paid. The railroad company made a trackage charge for placing the cars on a house track, and from there they were rebilled to another point in the same state on a line of the same company, not having been unloaded. The company also charged demurrage if the cars were not reconsigned within the free time. The court held that the second shipment was a separate and intrastate shipment and governed by intrastate rates.

IN THE DISTRICT COURTS.

LIEN FOR FREIGHT CHARGES.

In *The Appam*, 243 Fed., 230, decided July 3, 1917, the court for the southern district of New York held that the shipowners had no lien for freight on the cargo, as a carrier can not preserve a lien for freight where he totally abandons the carriage of the goods, even though the abandonment is under force majeure.

LIABILITY OF CONSIGNEE.

In *Duncan* v. *United Steel Co.*, 244 Fed., 258, decided August 24, 1917, the court for the northern district of Ohio held that under an arrangement between them by which a railroad company delivered all cars of goods consigned to a manufacturing company on the latter's tracks and presented bills monthly for freight due thereon, such delivery and acceptance of a car raises an implied promise on the part of the consignee to pay the freight thereon if unpaid, and it is not released from such liability as matter of law by the fact that the consignor is also liable for the freight either under the law or by express promise to pay it.

REVIEW OF ORDERS.

In *Brooklyn Heights R. R. Co.* v. *Straus*, 245 Fed., 132, decided August 23, 1917, the court for the eastern district of New York held that the New York public service commission law is not unconstitutional because not expressly providing for appeal

from orders of the commission, the method of review by certiorari being applicable, and any abuse of discretion in refusing the writ being subject of appeal, and a suit to set aside an order being available.

DIFFERENTIAL RATES.

In *O. S. L. R. R. Co.* v. *Portland Cattle Loan Co.*, 245 Fed., 214, decided September 17, 1917, the court for the district of Oregon held, in an action by a railroad company to recover balances due as freight for shipments of cattle, that the published tariffs showed that a differential rate from the point of shipment to a central point should be collected; provisions for charging rate from central point in case of shipments routed in a particular way not applying.

TELEGRAPH CHARGES FOR OFF-LINE SERVICES.

In *C. G. W. R. R. Co.* v. *Postal T. C. Co.*, 245 Fed., 592, decided August 14, 1917, the court for the northern district of Illinois held that a contract between a telegraph company and a railway company for the rendition of off-line services for less than the rates published and charged the general public, though valid when made prior to the Hepburn Act, is prohibited thereby.

CONFERENCE RULINGS OF THE COMMISSION.

In the last-named case it was further held that the conference rulings of the Commission respecting the construction of statutes regulating commerce, though not conclusive, are entitled to great weight, and should not be lightly overruled.

INTERSTATE COMMERCE.

In *Landon* v. *P. U. C. of Kansas*, 245 Fed., 950, decided August 13, 1917, the court for the district of Kansas held that the piping of natural gas from one state, where it is produced, into another state, where it is distributed to consumers, constitutes interstate commerce; and its character is not changed by the fact that the gas is stored in the latter state merely as a necessary incident to its proper and efficient transportation.

PRIVATELY OWNED TANK CARS.

In *P. C. C. & St. L. Ry. Co.* v. *Freedom Oil Works*, 247 Fed., 573, date of decision not given, the court for the western district of Pennsylvania held that as the prompt movement of cars is necessary to carry on the business of carriers, as well as to prevent discrimination among shippers, a carrier may impose demurrage charges on privately owned tank cars used in its business.

FEDERAL CONTROL ACT.

In *Muir* v. *L. & N. R. R. Co.*, 247 Fed., 888, decided March 2, 1918, the court for the western district of Kentucky held that rights of action against a railroad company, arising out of relation of carrier and passenger, already vested, can not be divested by the act of the President of the United States in taking possession of and assuming control of railroads under the act of August 29, 1916.

JUDICIAL QUESTION.

In *In Re Independent Sewer Pipe Co.*, 248 Fed., 547, decided March 4, 1918, the court for the southern district of California held that what rate should be established for hauling a specified commodity is an administrative or legal question, properly determinable by a railroad commission; but what a given commodity is is a judicial question, over which the Commission has no jurisdiction.

UNLAWFUL DISCRIMINATION.

In *S. A. L. Ry. Co.* v. *U. S.*, 249 Fed., 368, decided January 19, 1918, the court for the eastern district of Virginia held that the act to regulate commerce does not define the particular acts which constitute unlawful discrimination, as that question is left to the Commission, and its findings of fact in that connection are conclusive.

APPENDIX F.

AVERAGE ANNUAL RAILWAY OPERATING INCOME CERTIFICATIONS THUS FAR MADE TO THE PRESIDENT PURSUANT TO SECTION 1 OF THE FEDERAL CONTROL ACT, APPROVED MARCH 21, 1918.

AVERAGE ANNUAL RAILWAY OPERATING INCOME.

The certifications thus far made to the President, pursuant to section 1 of the federal control act, approved March 21, 1918, are shown below; deficits are in italics:

Name of carrier.	Average annual railway operating income.
Ahnapee & Western Ry. Co	$31,118.48
Akron & Barberton Belt R. R. Co	30,103.76
Ann Arbor R. R. Co	526,882.96
Arizona Eastern R. R. Co	1,242,474.82
Arizona & New Mexico Ry. Co	300,965.13
Arkansas Central R. R. Co	6,838.58
Arkansas Western Ry. Co	*6,575.51*
Asheville & Craggy Mountain Ry. Co	*3,017.13*
Atchison, Topeka & Santa Fe Ry. Co	38,443,724.93
Atlanta, Birmingham & Atlantic Ry. Co	358,058.43
Atlanta Terminal Co	68,935.62
Atlanta & West Point R. R. Co	252,995.16
Atlantic City R. R. Co	222,066.04
Atlantic Coast Line R. R. Co	10,180,915.15
Atlantic & Western R. R. Co	12,660.72
Augusta Southern R. R. Co	22,587.01
Augusta & Summerville R. R. Co	*286.90*
Baltimore, Chesapeake & Atlantic Ry. Co	86,647.38
Baltimore & Sparrows Point R. R. Co	55,520.12
Bangor & Aroostook R. R. Co	1,555,775.29
Barnegat R. R. Co	*8,867.25*
Bath & Hammondsport R. R. Co	7,221.43
Bellingham and Northern Ry. Co	40,305.24
Bessemer & Lake Erie R. R. Co	4,674,714.44
Big Fork & International Falls Ry. Co	31,931.82
Bingham & Garfield Ry. Co	1,234,492.96
Birmingham Terminal Co	77,456.16
Blue Ridge Ry. Co	37,887.22
Brimstone R. R. & Canal Co	42,113.26
Brooklyn Eastern District Terminal	306,259.63
Buffalo, Rochester & Pittsburgh Ry. Co	3,276,410.42
Canadian Pacific Ry. Co. Lines in Maine	251,555.44
Carolina & Northwestern Ry. Co	64,599.62
Catasauqua & Fogelsville R. R. Co	141,512.32
Central New England Ry. Co	1,468,123.63
Central of Georgia Ry. Co	3,450,903.32
Central R. R. Co. of New Jersey	9,352,301.13
Central New York Southern R. R. Corporation	16,502.19
Charleston Terminal Co	24,986.24
Charleston Union Station Co	12,368.57
Charleston & Western Carolina Ry. Co	466,921.15
Charlotte, Monroe & Columbia R. R	*344.43*
Chattahoochee Valley Ry. Co	42,341.29
Chattanooga Station Co	43,604.48
Cherry Tree & Dixonville R. R. Co	67,926.10
Chester & Delaware River R. R. Co	161,332.28
Chesterfield & Lancaster R. R. Co	1,267.43
Chicago & Alton R. R. Co	3,178,314.92
Chicago, Burlington & Quincy Ry. Co	33,360,683.11
Chicago Great Western R. R. Co	2,953,449.94
Chicago, Memphis & Gulf R. R. Co	45,699.03
Chicago, Milwaukee & St. Paul Ry. Co	27,154,551.02
Chicago & North Western Ry. Co	23,201,015.60
Chicago, St. Paul, Minneapolis & Omaha Ry. Co	4,934,789.51
Cincinnati, Lebanon & Northern Ry. Co	111,984.61
Cincinnati Northern R. R. Co	317,628.01
Cleveland, Cincinnati, Chicago & St. Louis R. R. Co	9,938,597.23
Colorado & Southern Ry. Co	2,481,211.88
Connecting Terminal R. R. Co	61,243.93
Cooperstown & Charlotte Valley R. R. Co	*15,381.59*
Cumberland & Pennsylvania R. R. Co	235,806.60
Cumberland R. R. Co	*412.22*
Cumberland Valley R. R. Co	1,228,966.51
Dallas Terminal Ry. & Union Depot Co	40,820.22

Average annual railway operating income—Continued.

Name of carrier.	Average annual railway operating income.
Danville & Western Ry. Co.	$135,308.08
Delaware & Hudson Co.	7,409,609.12
Delaware, Lackawanna & Western R. R Co.	15,749,476.74
Delaware & Northern R. R. Co.	6,649.96
Denison & Pacific Suburban Ry. Co.	4,702.45
Denver & Salt Lake R. R. Co.	353,289.67
Detroit & Mackinac Ry. Co.	310,664.04
Detroit Terminal R. R. Co.	186,460.40
Duluth & Iron Range R. R. Co.	2,355,241.74
Duluth, Missabe & Northern Ry. Co.	5,122,051.04
Duluth, South Shore & Atlantic Ry. Co.	594,637.41
Duluth & Superior Bridge Co.	33,048.48
Duluth Terminal Ry. Co.	23,830.40
Duluth Union Depot & Transfer Co.	32,175.84
Dunleith & Dubuque Bridge Co.	138,178.32
Durham & Southern Ry. Co.	134,221.70
Durham Union Station Co.	6,953.60
East St. Louis Connecting Ry. Co.	127,219.89
Electric Short Line Ry. Co.	*1,966.04*
Elgin, Joliet & Eastern Ry. Co.	2,862,177.21
El Paso & Southwestern Ry. Co.	4,145,102.30
Erie R. R. Co.	15,503,938.92
Escanaba & Lake Superior R. R. Co.	58,688.01
Florida East Coast Ry. Co.	2,842,842.20
Fort Worth & Denver City Ry. Co.	1,891,386.40
Gallatin Valley Ry. Co.	*8,980.77*
Galveston, Harrisburg & San Antonio Ry. Co.	3,230,644.60
Galveston Wharf Co.	526,069.92
Georgia Coast & Piedmont R. R. Co.	*7,007.36*
Georgia, Florida & Alabama Ry. Co.	57,637.73
Georgia & Florida Ry.	*562.98*
Georgia Northern Ry. Co.	62,707.69
Georgia Railroad Lessee Organization.	858,622.42
Gettysburg & Harrisburg Ry. Co.	38,955.46
Gilmore & Pittsburgh R. R. Co. (Ltd.).	40,376.93
Grand Canyon Ry. Co.	233,496.47
Grand Rapids & Indiana Ry.	929,385.42
Great Northern Ry. Co.	28,666,681.07
Green Bay & Western R. R. Co.	204,877.83
Greenwich & Johnsonville Ry. Co.	49,534.30
Gulf, Colorado & Santa Fe Ry. Co.	2,828,217.50
Gulf, Mobile & Northern R. R. Co.	558,337.86
Gulf and Ship Island R. R. Co.	597,455.62
Gulf Terminal Co.	25,754.02
Gulf, Texas & Western Ry. Co.	*44,609.81*
Hannibal Connecting R. R. Co.	*2,565.55*
Harriman & Northeastern R. R. Co.	51,645.62
Hartwell Ry. Co.	4,393.75
Hocking Valley Ry. Co.	2,637,167.48
Houston East & West Texas Ry. Co.	375,565.53
Houston & Shreveport R. R. Co.	85,031.76
Houston & Texas Central R. R. Co.	1,717,505.76
Iberia & Vermillion R. R. Co.	14,495.36
Indianapolis Union Ry. Co.	226,781.02
Interstate R. R. Co.	83,786.51
Iowa Transfer Ry. Co.	2,414.96
Kanawha & Michigan Ry. Co.	1,295,141.37
Kanawha & West Virginia R. R. Co.	45,260.63
Kankakee & Seneca R. R. Co.	*42,164.52*
Kansas City, Mexico & Orient R. R. Co. and Kansas City, Mexico & Orient Ry. Co. of Texas, combined.	9,073.39
Kansas City, Shreveport & Gulf Terminal Co.	6,014.66
Kansas City Southern Ry. Co.	3,216,697.65
Kansas Southwestern Ry. Co.	*43,852.04*
Kewaunee, Green Bay & Western R. R. Co.	95,958.60
Lake Charles & Northern R. R. Co.	73,493.70
Lake Erie & Eastern R. R. Co.	127,081.06
Lake Erie & Western R. R. Co.	1,548,541.69
Lake Superior Terminal & Transfer Ry. Co. of the State of Wisconsin.	*93.05*
Leavenworth Terminal Railway & Bridge Co.	43,583.48
Lehigh & Hudson River Ry. Co.	519,371.13
Lehigh & New England R. R. Co.	1,135,760.91
Lehigh Valley R. R. Co.	11,321,233.25
Lessees Buffalo Creek R. R. Co.	409,397.76
Lorain, Ashland & Southern R. R. Co.	*108,877.98*
Lorain & West Virginia Ry. Co.	137,277.98
Louisiana & Arkansas Ry. Co.	407,987.27
Louisiana Railway & Navigation Co.	357,353.37
Louisiana Southern Ry. Co.	25,463.28

Average annual railway operating income—Continued.

Name of carrier.	Average annual railway operating income.
Louisiana Western R. R. Co.	$895,178.40
Louisville, Henderson & St. Louis Ry. Co.	343,915.53
Louisville & Jeffersonville Bridge & Railroad Co.	169,701.70
Louisville & Nashville R. R. Co.	17,310,491.67
Louisville & Wadley R. R. Co.	2,547.66
Macon, Dublin & Savannah R. R. Co.	90,575.92
Maine Central R. R. Co.	2,955,696.83
Manitou & Pikes Peak Ry. Co.	29,922.68
Manufacturers' Ry. Co.	*44,581.21*
Maryland, Delaware & Virginia Ry. Co.	49,543.23
Memphis Union Station Co.	121,353.84
Michigan Central R. R. Co.	8,052,127.48
Middletown & Hummelstown R. R. Co.	*4,112.91*
Midland Valley R. R. Co.	444,345.95
Milwaukee Terminal Ry. Co.	32,556.60
Mineral Range R. R. Co.	147,432.29
Minneapolis & Rainy River Ry. Co.	*9,033.98*
Minneapolis, Red Lake & Manitoba Ry.	14,633.72
Minneapolis & St. Louis R. R. Co.	2,639,857.25
Minneapolis Western Ry. Co.	*3,538.67*
Minnesota & International Ry. Co.	202,455.24
Missouri & North Arkansas R. R.	13,146.42
Missouri Valley & Blair Railway & Bridge Co.	*13,014.18*
Monongahela Ry. Co.	583,086.47
Morgan's Louisiana & Texas Railroad & Steamship Co.	1,188,525.58
Nashville, Chattanooga & St. Louis Ry. Co.	3,182,089.03
Natchez, Columbia & Mobile R. R. Co.	27.56
Nevada Copper Belt R. R. Co.	43,301.38
New Orleans Great Northern R. R. Co.	575,951.79
Newport & Richford R. R. Co.	*29,479.68*
New River, Holston & Western R. R. Co.	4,497.08
New York, New Haven & Hartford R. R. Co.	16,867,128.09
New York, Philadelphia & Norfolk R. R. Co.	998,050.76
New Orleans Terminal Co.	565,034.70
New York, Chicago & St. Louis R. R. Co.	2,218,856.59
New York, Ontario & Western Ry. Co.	2,103,589.41
New York, Susquehanna & Western R. R. Co.	805,587.17
Norfolk Southern R. R. Co.	1,163,990.77
Norfolk & Western Ry. Co.	20,534,163.48
North East Pennsylvania R. R. Co.	*23,793.83*
Northampton & Bath R. R. Co.	*2,585.22*
Northern Pacific Ry. Co.	30,057,760.06
Northwestern Pacific R. R. Co.	1,235,101.00
Northwestern R. R. Co. of South Carolina.	25,580.77
Ocilla Southern R. R. Co.	*9,826.26*
Ohio River & Western Ry. Co.	*18,819.70*
Oregon Trunk Ry.	84,722.38
Panhandle & Santa Fe Ry. Co.	1,330,663.88
Pere Marquette Ry. Co.	3,748,196.09
Perkiomen R. R. Co.	339,090.56
Philadelphia & Beach Haven R. R. Co.	*22,905.36*
Philadelphia & Chester Valley R. R. Co.	5,074.21
Philadelphia, Newtown & New York R. R. Co.	2,565.67
Pickering Valley R. R. Co.	24,917.31
Pierre & Fort Pierre Bridge Ry. Co.	11,341.17
Pierre, Rapid City & North Western Ry. Co.	*15,344.01*
Pine Bluff-Arkansas River Ry.	*12,887.78*
Pittsburgh, Chartiers & Youghiogheny Ry. Co.	180,614.38
Pittsburgh & Lake Erie R. R. Co.	8,980,219.40
Poteau Valley R. R. Co.	*3,232.19*
Puget Sound & Willapa Harbor Ry. Co.	82,149.27
Quincy, Omaha & Kansas City R. R. Co.	29,396.50
Raleigh & Charleston R. R. Co.	17,371.55
Raritan River R. R. Co.	160,256.70
Reading & Columbia R. R. Co.	18,230.27
Richmond, Fredericksburg & Potomac R. R. Co.	1,137,373.75
Rio Grande, El Paso & Santa Fe R. R. Co.	18,060.06
Rosslyn Connecting R. R. Co.	*6,598.83*
Rupert & Bloomsburg R. R. Co.	6,050.57
Rutland R. R. Co.	1,023,883.21
St. Joseph & Grand Island Ry. Co.	373,811.11
St. Louis Merchants Bridge Terminal Ry. Co.	412,427.56
St. Louis & O'Fallon Ry. Co.	99,702.27
St. Louis Southwestern Ry. Co.	3,355,748.99
St. Louis Southwestern Ry. Co. of Texas.	555,164.52
St. Louis Transfer Ry. Co.	*10,855.70*
St. Louis, Troy & Eastern R. R. Co.	143,257.24
San Antonio & Aransas Pass Ry. Co.	373,051.70
Sandy River & Rangeley Lakes R. R.	46,666.42
Savannah Union Station Co.	27,429.09

Average annual railway operating income—Continued.

Name of carrier.	Average annual railway operating income.
Schoharie Valley Ry. Co	$10,707.82
Seaboard Air Line Ry. Co	6,497,024.85
Seattle, Port Angeles & Western Ry. Co	72,664.93
Shreveport Bridge & Terminal Co	48,229.99
Sioux City Bridge Co	81,060.81
Sioux City Terminal Ry. Co	17,352.93
Southern Pacific Co	38,021,937.62
Southern Pacific Terminal Co	207,444.48
Spokane, Portland & Seattle Ry. Co	1,871,083.00
Standard & Hernando R. R. Co	*12,773.51*
Stony Creek R. R. Co	17,368.77
Sunset Ry. Co	64,562.79
Sylvania Central Ry. Co	3,283.68
Tacoma Eastern R. R. Co	133,525.16
Tallulah Falls Ry. Co	5,353.98
Tamaqua, Hazleton & Northern R. R. Co	1,457.50
Tampa & Gulf Coast R. R. Co	2,359.80
Tampa Union Station Co	14,660.40
Tennessee, Alabama & Georgia Ry. Co	*46,914.90*
Tennessee Central R. R. Co	162,733.55
Terminal R. R. Association of St. Louis	2,574,510.88
Texarkana & Fort Smith Ry. Co	318,729.68
Texas & New Orleans R. R. Co	715,135.69
Texas & Pacific Ry. Co	4,107,432.49
Texas Southeastern R. R. Co	23,012.96
Toledo & Ohio Central Ry. Co	1,086,650.87
Toledo, St. Louis & Western R. R. Co	994,294.38
Tonopah & Tidewater R. R. Co	182,638.84
Trinity & Brazos Valley R. R	*238,904.66*
Tug River & Kentucky River R. R. Co	19,698.73
Ulster & Delaware R. R. Co	128,009.47
Union R. R. Co. of Baltimore	1,387,766.97
Union Ry. Co. (Memphis, Tenn.)	84,690.41
Union R. R. Co. (Pennsylvania)	1,370,290.23
Virginia-Carolina Ry. Co	73,326.05
Virginian Ry. Co	3,247,603.41
Wadley Southern Ry. Co	*10,028.36*
Ware Shoals R. R. Co	10,553.30
Washington Southern Ry. Co	468,432.81
Washington & Vandemere R. R. Co	5,027.19
Watertown & Sioux Falls Ry. Co	51,339.50
Wayeross & Southern R. R. Co	*6,350.56*
Waynesburg & Washington R. R. Co	12,028.15
Weatherford, Mineral Wells & Northwestern Ry. Co	31,148.57
Western Allegheny R. R. Co	51,490.47
Western Maryland Ry. Co	3,079,593.35
Western Pacific R. R. Co	1,900,349.74
Western Ry. of Alabama	288,237.53
Wheeling & Lake Erie Ry. Co	1,586,037.32
Wheeling Terminal Ry. Co	113,151.33
Wichita Falls & Northwestern Ry. Co	145,245.24
Wichita Valley Ry. Co	352,367.05
Wilkes-Barre & Eastern R. R. Co	179,547.57
Williamson & Pond Creek R. R. Co	9,304.64
Williams Valley R. R. Co	2,486.86
Winston-Salem Southbound Ry. Co	260,251.62
Wrightsville & Tennille R. R	24,496.61
Wyoming & Northwestern Ry. Co	180,029.97
Yazoo & Mississippi Valley R. R. Co	3,862,317.83
Zanesville & Western Ry. Co	*107,598.45*

APPENDIX G.

ANNOUNCEMENTS AND SPECIAL RULES OF PRACTICE UNDER FEDERAL CONTROL.

ANNOUNCEMENTS AND SPECIAL RULES OF PRACTICE UNDER FEDERAL CONTROL.

INTERSTATE COMMERCE COMMISSION,
June 20, 1918.

ANNOUNCEMENT.

The act for the federal control of railroads and certain recent orders of the Director General have raised questions regarding the status of some of the cases before the Commission, attacking rates not initiated by the Unites States Railroad Administration. Inquiry has arisen how far the existence of rates initiated under section 10 of the federal control act, will limit or preclude the Commission from making lawfully effective orders in proceedings brought prior to such initiation of rates.

The Commission has always lent its active assistance to the settlement of complaints and difficulties between carriers and shippers through informal adjustment. Thousands of complaints and difficulties have been thus disposed of. There seems every reason why under federal control this policy should be continued with reference to complaints involving rates initiated by the United States Railroad Administration. Such action on our part would seem to be mandatory under section 8, of the federal control act, and we intend to accord our advice, assistance, and cooperation to that end wherever possible. We understand that the Director General is in accord with this plan of composing difficulties as regards rates initiated by the United States Railroad Administration.

Failing such efforts to compose difficulties or settle causes of complaint informally, the Commission is required under section 10 of the federal control act upon complaint to enter upon a hearing concerning the justness and reasonableness of so much of any order made thereunder as establishes or changes any rate, fare, charge, classification, regulation, or practice of any carrier under federal control. Save for the applicable provisions of this statute the jurisdiction of the Commission remains what it has been in the past. The Commission has not made and can not make any commitment which will prelude its full exercise of the jurisdiction vested in it.

A rate initiated by the United States Railroad Administration can not be lawfully altered by the Commission, except on complaint after hearing at which the United States Railroad Administration is entitled to be heard. It follows that inasmuch as a new freight-rate structure becomes effective June 25 next, some of these rates might conflict with orders which the Commission might enter prescribing rates for the future, even though the orders were entered on the basis of the records in complaints now pending before us. It seems, however, that in certain cases the Commission can make lawfully effective orders in proceedings brought prior to such federal initiation of rates. Thus any pending complaint, where the complainant desires to use the finding of the Commission as a possible basis for a suit at law for reparation, will be disposed of on the present record so far as that matter is concerned. The same is true of cases pending in so far as they seek reparation for damage from rates unlawfully exacted. Allegations of discrimination may, in certain cases, be disposed of on the records now before us. We do not prejudge the question which has been raised whether by amendment to pleadings in pending cases the United States Railroad Administration may be made a party against which a lawfully effective order may be entered.

The Commission will, as of course, continue consideration and reach conclusions as above indicated in pending cases; where it is possible to make a lawfully effective

order without amendment of the pleadings that will be done; and, so far as is possible, the records heretofore built up will be made available for the determination of the ssues. The dockets in pending cases will be analyzed, and where it appears that doubt exists whether, without amendent or supplemental hearing, the Commission can enter a lawfully effective order, the parties will be so notified.

Such appropriate changes as the federal control act may render necessary will be made in the Commission's Rules of Practice.

INTERSTATE COMMERCE COMMISSION,
August 3, 1918.

SUPPLEMENTAL ANNOUNCEMENT.

Following our announcement of June 20, 1918, the question there reserved was argued before us on July 24, 1918, and waiver was made for the Director General of any requirement that the justness or reasonableness of tariff changes initiated by him should be heard and determined by us only upon original complaints in new proceedings.

Proceedings before us vary greatly as to subject matter and relief sought. Some are brought under the act to regulate commerce, as amended, and others under other statutes. In some the moving parties are shippers, and in others carriers. Some are investigations instituted by us of our own motion. Several proceedings are sometimes consolidated for hearing or disposition. As indicated in our former announcement, the federal control act and the orders which the Director General acting for the President is empowered to make thereunder have raised questions concerning the status of proceedings pending before us. This status can best be determined in each case upon consideration of the elements disclosed. Without attempting to determine their status according to the classes in which they seem to fall, it may be found helpful if we here indicate certain of the criteria which may properly be applied in making such determination.

We are of the opinion that in cases now pending before us, whether heard and submitted or not, in which complaint is made of rates, fares, charges, classifications, regulations, or practices of any common carrier or carriers now under federal control, the Director General of Railroads:

1. Is or may be a proper party defendant where the cause of action accrued wholly prior to federal control, and no order is sought for the future;

2. Is or may be a proper, if not a necessary party defendant where the cause of action accrued in part or in whole during federal control, and no order is sought for the future;

3. Is a necessary party defendant where the cause of action is as to rates, etc., which since the filing of the complaint have been or shall have been increased or changed by order of the Director General under the federal control act, and the relief sought includes an order for the future limiting said rates, etc., or fixing their relationship to other rates, etc.

Complainants in such cases desiring to bring in the Director General as an additional defendant should so advise us immediately, and as soon as may be thereafter apply for leave to file supplemental complaint setting forth their cause of action against the Director General. Such application must be made as provided in our forthcoming special rules of practice governing the procedure to be followed in matters growing out of federal control. If granted, the record theretofore made may be supplemented in so far as necessary or appropriate. Failing such application on or before October 1, 1918, unless that time is extended by us for cause shown, complainants will be understood as electing to stand upon the issues as made.

Parties will be expected to govern themsevles accordingly, and that part of our announcement of June 20, 1918, which reads: "The dockets in pending cases will be

analyzed, and where it appears that doubt exists whether, without amendment or supplemental hearing, the Commission can enter a lawfully effective order, the parties will be so notified." is hereby withdrawn.

Cases now pending before us otherwise than upon complaint will be made the subject of a separate announcement should occasion require.

Original complaints in new proceedings against the Director General alleging that rates, etc., initiated by him are unjust or unreasonable should name as defendants in addition to the Director General, the carriers not under federal control, and should specify the carriers, or the principal carriers, under federal control, over whose lines the rates, etc., apply. Answer by the Director General will suffice for joinder of issue as to carriers under federal control.

The special rules of practice thus far adopted are the following, effective forthwith:

SPECIAL RULES OF PRACTICE GOVERNING THE PROCEDURE TO BE FOLLOWED IN MATTERS ARISING OUT OF FEDERAL CONTROL, ADOPTED AUGUST 3, 1918.

1. Except as hereinafter provided, proceedings arising out of federal control will be governed by the Commission's Rules of Practice, in so far as applicable.

2. In cases now pending before the Commission—

(*a*) Complainants desiring that the Director General of Railroads be made an additional defendant should apply therefor as soon as may be, and not later than October 1, 1918. Failing receipt of such application within the time specified, complainants will be understood as electing to stand upon the issues as made.

(*b*) The application shall be made by filing a motion in writing that the Director General be brought in as party defendant, and that leave be granted to file a supplemental complaint, which must accompany the motion. The motion shall briefly state the grounds therefor, indicating whether the Director General is regarded as a proper or a necessary party defendant, and whether, if he be made a party defendant, the complainant desires further hearing or further argument. The supplemental complaint shall set forth the material facts which have occurred since filing of the original complaint, and state the alleged cause or causes of action against the Director General. It shall not be necessary in any supplemental complaint to set forth any matters in the original complaint unless the special circumstance of the case may require it.

(*c*) Complaintants must furnish a sufficient number of copies of the motion and supplemental complaint for service upon the existing defendants and interveners and the Director General, together with 12 extra copies for the use of the Commission. The motion will be decided either ex parte or on notice in the discretion of the Commission, and the parties advised. Service will be made by the Commission.

(*d*) The defendants named in the supplemental complaint may within 20 days after service thereof by the Commission file answer thereto, at the same time indicating whether further hearing or argument is desired.

3. Original complaints filed in new proceedings under section 10 of the federal control act, approved March 21, 1918, should name as defendants, in addition to the Director General of Railroads, the carriers not under federal control, and should specify the carriers, or the principal carriers under federal control, over whose lines the rates, fares, charges, classifications, regulations, or practices apply. The complainant must furnish as many complete copies of the complaint as there may be parties defendant to be served, including receivers and operating trustees of carriers not under federal control, as many additional copies for the Director General as there are carriers under federal control specified in the complaint, and not named as defendants, and seven additional copies for the use of the Commission. Service of the complaint will be made by the Commission.

4. Answers must comply with the provisions of Rule IV of the Rules of Practice, but answer made by the Director General on behalf of carriers under federal control will be deemed sufficient to join issue as to those carriers.

5. In special cases and for good cause shown the time specified in the foregoing rules within which some act may be performed may be extended by the Commission.

6. Motions, supplemental complaints, and answers must be typewritten on one side of the paper only, or be printed. In either case they must conform to the specifications of Rule XXI of the Rules of Practice.

7. Intervention may be had by any person under the terms and conditions prescribed in Rule II of the Rules of Practice.

APPENDIX H.

LETTER TO THE PRESIDENT REGARDING OPERATING INCOME CERTIFICATIONS.

LETTER TO THE PRESIDENT REGARDING OPERATING INCOME CERTIFICATIONS.

SEPTEMBER 3, 1918.

To the PRESIDENT:

The federal control act, approved March 21, 1918, provides as regards carriers taken under federal control and making operating returns to this Commission that "The average annual railway operating income shall be ascertained by the Interstate Commerce Commission and certified by it to the President."

The certificate which we are required to transmit to yourself for the purpose of your making an agreement with any such carrier as to its just compensation, is by the act made conclusive of the amount of its average annual railway operating income for the three-year period ended June 30, 1917.

In transmitting to you herewith certificates numbered 1, 2, 3, 4, 5, 6, 11, 82, 116, 289, 291, and 360, inclusive, we deem it proper to explain briefly our construction of Section I of the federal control act, and of our action both as regards these certificates and those to follow.

The federal control act employs certain specific terms of our accounting system, and indicates that in the certificate the terms are to be used in the same sense. Furthermore, the end of the three-year period designated in the statute does not coincide with the fiscal year currently prescribed, and we must therefore compute the average annual railway operating income attributable to the first six months of 1917 in conformity, so far as we reasonably can, with the accounting methods prescribed by us for the carriers' observance.

The term "Railway operating income" designates a particular item in the sworn monthly and annual reports required of carriers. It is essentially the excess of railway operating revenues over the sum of concomitant railway operating expenses and railway tax accruals.

Into the various refinements which from a technical accounting standpoint might modify this item determined as above indicated, we do not deem it appropriate here to enter. We note only in passing that the statute employs two other specific terms of our system of accounts, to wit, "equipment rents" and "joint facility rents," and requires their inclusion whether debits or credits, to arrive at the carrier's annual just compensation which the statute provides shall not exceed "a sum equivalent as nearly as may be to its average annual railway operating income for the three years ended June thirtieth, nineteen hundred and seventeen."

We have perforce been obliged to observe in connection with the preparation of these certificates the narrow time limits within which a procedure to be workable must be confined. It is not impossible that if these limitations had not been present, a more detailed and comprehensive scrutiny of the carriers' financial reports might have been effected and a revision thereof proffered which from a standpoint of accounting accuracy might be superior to that which for practical reasons we here offer.

We are of opinion moreover that the Congress intended that our certification should proceed within practical limits and along our established accounting lines. The financial returns of the carriers under the current accounting system were before the Congress when the act was passed, and while we are not in terms bound in making the certificates to refrain from deviating from the accounting methods which have in general been mandatory since July 1, 1907, we are of opinion that no radical departure therefrom was contemplated by the Congress nor enjoined upon us by the act. We have always exercised the power to revise the carriers' returns. In our certificates

we have reserved the right and power to correct the amount certified as average annual railway operating income to the extent that the Commission may certify to be requisite in order to bring the accounts into conformity with the regulations in effect at the time of such accounting, and to correct computations based thereon.

It is proper to state that all carriers do not observe the same standards of maintenance and depreciation. These depend somewhat upon varying operating and traffic conditions in different sections, and to a larger extent are affected by variations in the administrative policies of the carriers. There is, however, no fixed standard and aside from the conjectural character of the assumption of a single standard for all carriers, such an equalizing attempt would involve a complete revision of the accounts and reports of each carrier, a task so vast that it is utterly impracticable to attempt it. To meet this difficulty in a practical way it is proposed to provide in the contract with carriers an automatic correction in the form of a provision that during federal control the Government shall expend enough on the carrier's property to insure its return at the end of federal control in substantially as good repair and complete equipment as it was on January 1, 1918, with the proviso that an average annual expenditure for such purposes equal, making due allowance for differences in wages of labor and cost of materials to that made by the carrier itself during the test period shall be deemed a satisfaction of the covenant, and with a further provision that expenditures in excess of those so made by the carrier for the test period, but required for the safe and proper operation of the property, assuming a use similar to the use during the test period, shall be made good by the carrier.

We regard the provisions of the Adamson Act as superimposed upon our accounting regulations, and are of the opinion that the wage entries since January 1, 1917, should conform to the standard established by that act. In this particular, therefore, carriers' returns have been revised by us so as to include in the computation as a part of operating expenses the wage accruals under the Adamson Act for the first six months of the calendar and fiscal year 1917.

Conformable to our accounting usage we think it apporpriate to compute for the six months beginning January 1, 1917, appropriate accruals for that period of the war taxes, and deduct the same in arriving at the figure properly to be reported under the head of average annual railway operating income. In harmony with published rulings of the Treasury Department we have calculated such tax accruals for the first six months of 1917 at one-half of the total for that year.

WINTHROP M. DANIELS,
Chairman.

Commissioner ANDERSON:

In the foregoing statement I am unable to concur. I can not join in certificates made pursuant thereto.

As originally drafted, the federal control act required of this Commission merely a certificate based upon the returns made; but as finally enacted we were required to "ascertain" and certify the average railway operating income as the basis of probable contracts between the Government and the carriers, approaching $1,000,000,000 a year.

In my view Congress thus put upon the Commission the duty of ascertaining, within practical limits and as "nearly as may be," the net earnings of the carriers during the test period. I do not think the methods adopted by my colleagues meet the requirements of the act.

I do, however, concur in the method of leaving deferred maintenance to be dealt with by an automatically correcting provision in the proposed contracts. I agree that back wages paid under the Adamson Act and war taxes should be deducted as proposed. But I think other analogous readjustments not numerous, though substantial, are required and might easily and speedily be made.

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